

Digitized by the Internet Archive
in 2013

<http://archive.org/details/constitutionalco24mary>

CONSTITUTIONAL CONVENTION

OF THE

STATE OF MARYLAND

Maryland Room
University of Maryland Library
College Park, Md.

Chamber of the House of Delegates

State Capitol

Annapolis, Maryland

December 8, 1967 - 10:00 a.m.

HONORABLE H. VERNON ENEY,
PRESIDENT

Reported by:
D. Fitzgerald
P. Banister

P R O C E E D I N G S

THE PRESIDENT: The Convention will please come to order.

The invocation this morning will be offered by the Reverend Robert Newbold of Grace Presbyterian Church in Baltimore City. Reverend Newbold is Delegate Gill's minister.

REVEREND NEWBOLD: Let us pray.

Eternal God, our Heavenly Father, we thank Thee for those whom Thou hast called to be Members of this Convention, for those individuals who have affirmatively responded to Thy call, indicating their willingness to give generously of their time and liberally of their talents.

We pray that Thy Holy Spirit may attend them not only in today's session but in the remaining sessions so that they may focus upon the common good; so that they may disagree without becoming disagreeable; so that the emphasis may be on people and not politics; so that there may be a sense of the guidance of Thy Holy Spirit.

We pray that what is said and done during this day's session particularly may be said and done to Thy honor

1 and to Thy glory.

2 In the name of the Father and of the Son and
3 of the Holy Spirit.

4 Amen.

5 THE PRESIDENT: Roll call.

6 Has every Delegate answered roll call? The Clerk
7 will record the roll call.

8 There being a quorum present, the Convention is
9 in session.

10 The Chair recognizes Delegate Powers, Chairman
11 of the Committee on Calendar and Agenda.

12 DELEGATE POWERS: Mr. President, I move the
13 calendar be amended so as to permit resuming consideration
14 of Committee Recommendations S and E-2 and as so amended
15 that the daily calendar and agenda be adopted.

16 (Whereupon, the motion was seconded.)

17 THE PRESIDENT: All in favor signify by saying
18 Aye, contrary No. The Ayes have it. It is so ordered. The
19 calendar is amended as adopted.

20 The Chair recognizes Delegate Fox.

21 DELEGATE FOX: Mr. Chairman, Ladies and Gentlemen

1 of the Committee, I would like you to join with me in
2 welcoming 40 students from James Bennett High School in
3 Wicomico County, members of the Problems of Democracy Class,
4 seated in the gallery above the rostrum with their teacher,
5 Mrs. John Clinton. Those young folks got up early enough
6 this morning to be up in Annapolis before 9:00 o'clock this
7 morning. (Applause.)

8 THE PRESIDENT: Delighted to have them.

9 Are there any reports of Committees, Mr. Clerk?

10 Are there any motions or resolutions?

11 The Chair recognizes Delegate Powers.

12 DELEGATE POWERS: Mr. President, I move the
13 Convention resolve itself into the Committee of the Whole
14 for the purpose of considering General Orders of the Day.

15 THE PRESIDENT: Is there a second?

16 (Whereupon, the motion was seconded.)

17 All in favor signify by saying Aye, contrary No.
18 The Ayes have it. It is so ordered. The Committee of the
19 Whole will please come to order.

20 (The mace was removed by the Sergeant at Arms.)

21 (Whereupon, at 10:11 a.m., the Convention resolved

1 itself into the Committee of the Whole.)

2 THE CHAIRMAN: First item on the agenda for the
3 Committee of the Whole is the resumption of consideration
4 of Committee Recommendation S and E-2.

5 Delegate Carson in the chamber? Delegate
6 Bamberger in the chamber?

7 Is your amendment with respect to Section 5
8 printed, Delegate Bamberger?

9 DELEGATE BAMBERGER: Yes.

10 THE CHAIRMAN: Pages will distribute Amendment AO.
11 Delegate Kosakowski.

12 DELEGATE KOSAKOWSKI: When we recessed yesterday,
13 we were in the midst of discussing Section 7. It would seem
14 to me that it would be better if we would go through and
15 go back to these other sections.

16 THE CHAIRMAN: Very well. I thought we could
17 clear up the two amendments from the earlier sections, but we
18 can go back to them.

19 We will hold Amendment AO and not consider it at
20 the present time.

21 At the time of recess yesterday, we concluded the

1 presentation on behalf of the Committee and of the Minority
2 of the respective positions with respect to Section 7.

3 Do you have the amendment to be offered by the
4 Minority?

5 Delegate Byrnes, I take it you would first desire
6 to offer your amendment E?

7 DELEGATE BYRNES: No, Mr. Chairman, Amendment F.

8 THE CHAIRMAN: Pages will distribute Amendment F.
9 Amendment F will be marked Amendment 14.

10 The Clerk will read the amendment.

11 MR. QUILLEN: Amendment 14 to Committee
12 Recommendation No. S and E-2 by Delegate Byrnes:

13 On page 3, Section 7, General Elections in line 22
14 after the word "State" add the words "and county";
15 and, in line 27, strike out the word "county" and insert
16 in lieu thereof the words "Baltimore City".

17 THE CHAIRMAN: Delegate Byrnes, the Chair under-
18 stands that you have four amendments dealing with this
19 section.

20 Is it your purpose to offer those as alternates?

21 DELEGATE BYRNES: Mr. Chairman, we are only

1 offering Amendment F at this point.

2 THE CHAIRMAN: Will the others be offered later?

3 What I want to know is, whether or not the period
4 of controlled debate is to pertain to the entire subject
5 matter or just this one amendment?

6 DELEGATE BYRNES: Just this one amendment, sir.

7 THE CHAIRMAN: Then you will not offer the other
8 amendments at all?

9 DELEGATE BYRNES: I will not.

10 THE CHAIRMAN: Very well.

11 This is a period of controlled debate.

12 The Chair recognizes Delegate Byrnes.

13 Just a second. The amendment is submitted by
14 Delegate Byrnes. Is it seconded?

15 (Whereupon, the amendment was seconded.)

16 THE CHAIRMAN: The amendment is seconded.

17 For what purpose does Delegate Schloeder rise?

18 DELEGATE SCHLOEDER: It was my understanding
19 controlled time would deal with the entire subject matter.

20 THE CHAIRMAN: That is the understanding but I
21 just understood from Delegate Byrnes that the other three

1 amendments will not be offered at all. That means it deals
2 only with Amendment 14, which was "F".

3 DELEGATE SCHLOEDER: Thank you for that clarifi-
4 cation.

5 THE CHAIRMAN: Delegate Byrnes.

6 DELEGATE BYRNES: Mr. Chairman, I understand
7 Delegate Macdonald has an amendment to my amendment. I would
8 like to see whether or not that could not be discussed
9 first before we involve ourselves in the debate on this
10 subject and then have it resumed again.

11 THE CHAIRMAN: The procedure we have been
12 following is the Minority amendment is submitted first,
13 controlled debate deals with that amendment, any amendments
14 to that amendment are offered at the beginning of the period
15 of uncontrolled debate.

16 Delegate Byrnes.

17 DELEGATE BYRNES: Mr. Chairman, yesterday after-
18 noon, Delegate Chabot and I engaged in colloquy dealing with
19 statistics we both had and our various interpretations
20 thereof. So as not to mislead this body or to leave on the
21 record confusion that may be on there now, I would like to

1 state, if I am incorrect in the statement Delegate Chabot
2 will correct me, I am sure, that comparing the gubernatorial
3 and mayoralty turn-outs in Baltimore City for the past from
4 1954 to 1967, we have, I will first read Governor then after
5 that the Mayor and Governor and Mayor and Governor and
6 Mayor, and so forth.

7 254,000 for Governor, 218,000 for Mayor, 1958-
8 1959;

9 151,000 for Governor, 228,000 for Mayor, '62-'63;

10 203,000 Governor, 212,000, Mayor, '66-'67;

11 242,000 Governor, 171,000 Mayor.

12 The point Delegate Chabot was trying to make was
13 that if you average both totals, you would find that the drop
14 off from Governor to Mayor on the average is 2-1/2 percent.

15 The point I was going to make for the same figures
16 was that in Baltimore City, which was not merged with the
17 gubernatorial, you do have a wildly fluctuating fall-off.
18 In one year, the mayoralty is higher than the Governor; the
19 next year it is much lower than the Governor, following year
20 is higher and the year after that is low. I compare that,
21 if I may, Mr. Chairman, to the statistics in /Arundel County
Anne

1 and Baltimore County, for example, Garrett County,
2 Montgomery County and Prince Georges County, where the
3 County elections are merged with the State. In those
4 counties, our statistics indicate there is a consistently
5 high response by the County voters to both the County and
6 the State elections.

7 So I think from the same statistics we draw
8 different conclusions. For the benefit of those who were
9 not able to be with us the latter part of yesterday, I would
10 like to, if I may, very briefly summarize what the position
11 of the Minority was and is and then devote the remainder of
12 my time to various speakers who have indicated a desire to
13 speak on the subject.

14 The Majority recommended there be odd-year
15 elections for Counties, Minority recommended to you that the
16 status will be retained, that is to say, County elections
17 remain with the State and Baltimore City which we could be
18 unique in Maryland, with its political subdivisions, remain
19 a load in an odd year. WE have said a small turnout produces
20 a less democratic response, and that is to say, the poor and
21 independents are the ones who stay home. If there were proof

1 that odd year elections do in fact draw a selective
2 electorate even if not a large one, perhaps odd years would
3 be warranted.

4 Secondly, odd year elections cost the government,
5 candidates and contributors. Again, if the value could be
6 shown to us, this could be justified. Again, no proof has
7 been suggested.

8 Thirdly, elections should be a special event in
9 the lives of the citizens, not a continuous process.

10 Fourthly, high turnouts increase the pressures
11 on candidates, we think, and devotes more energy to issues
12 rather than gimmicks and gross publicity.

13 Fifth, less frequent elections permit greater
14 degree of average citizen participation.

15 Sixth, governmental issues and political office
16 holders at one level can never, no matter what we do here,
17 insulate it from the issues and office holders of other
18 levels, intergovernmental realities speak too clearly to the
19 contrary.

20 Seventh, election in three of every four years
21 force office holders at all levels of governments to devote

1 still more time to politics than to their job responsibilities
2 and also encourage one to use one office level as a platform
3 or launching pad to another the following year.

4 Finally, if there were elections in two of every
5 four years, the administrators of elections would have a
6 much easier task in formulating policies, record keeping and
7 analysis of election results.

8 Mr. Chairman, I would like to call upon and
9 yield three minutes to Delegate Beatrice Miller.

10 THE CHAIRMAN: I will recognize her at a later
11 time.

12 Delegate Schloeder.

13 DELEGATE SCHLOEDER: Mr. Chairman, Ladies and
14 Gentlemen, it is very interesting that in this amendment
15 that we have before us we seem to have a very basic contra-
16 diction. All the arguments that were given by Delegate
17 Byrnes in support of his position somehow overlook the fact
18 that there is this contradiction.

19 He says allowing Baltimore City to have three
20 elections in every four years, but the rest of the subdivi-
21 sions would have two elections in every four years.

1 I am not too clear how this contradiction can be
2 resolved. If all these arguments that he gives are valid
3 arguments, it would seem to me that these arguments would be
4 as valid for Baltimore City as they would be for the Counties.

5 He seems to for the first time in this Convention
6 to be asking for an exception for Baltimore City. But more
7 to the logic and reasoning of the argument, I just find it
8 very difficult, these seven fine arguments against having
9 three elections in four years for some strange reason the
10 political climate of Baltimore City is immune to those seven
11 reasons.

12 Before we begin, I would like to point to that
13 basic contradiction, so that you can be very clear in your
14 own mind as to what this amendment would do.

15 I would yield at a later time to those who have
16 indicated interest to speak.

17 THE CHAIRMAN: Delegate Beatrice Miller.

18 DELEGATE B. MILLER: Mr. Chairman, and Fellow
19 Delegates, I rise in support of the amendment and the
20 Minority Report.

21 Those of you who have watched me on the floor

1 know I am usually not reluctant to change. I am not
2 particularly an advocate of the status quo. But I see no
3 reason to change merely for change's sake.

4 I have heard; I have listened; I have spoken
5 to a great many Delegates. I find none who will tell us
6 what will be better by changing what we have and, therefore,
7 I cannot see any real reason to change it.

8 Those of us who have worked in the past with
9 voluntary organizations on elections know how difficult it
10 is to get the support of those people and to ask them time
11 after time, year after year, to devote the kind of hard work,
12 sacrifice, hours that they do freely each year. We fear that
13 if we go into yearly elections, we will be faced with a more
14 mechanized kind of machine, a paid kind of operation because
15 we do not think we can get the kind of volunteer support we
16 have been accustomed to up to the present time.

17 This is my very strongest reason for advocating
18 that we stay with what we have and the kinds of operation
19 we are having and to which our people are accustomed to
20 volunteering more time and effort, but I don't think we
21 could ask people to do this on a yearly basis.

1 I would also submit that a yearly election would
2 remove an aura of stability that we have in terms of govern-
3 ment. We would constantly be discussing who gets in and who
4 got out. We would constantly be attempting to adjust newly
5 elected to the positions in which they are elected. We
6 would constantly be having a strain on government in
7 accommodating new people.

8 Furthermore, I would submit that there is possibly
9 a difference in Baltimore City. I do not know specifically
10 how they carry on elections in Baltimore City. I am told
11 that it is different.

12 Certainly, conditions there appear to be different.
13 Whether this is because Baltimore City people are more
14 sophisticated, whether they are more advanced in their poli-
15 tics, I don't know, but it is possible they can have a
16 yearly election in Baltimore City.

17 THE CHAIRMAN: You have one-quarter minute, Dele-
18 gate Miller.

19 DELEGATE B. MILLER: Speaking for ourselves,
20 other parts of the State, I can find no advocacy for the
21 off-year elections and I would urge that we do not adopt them.

1 THE CHAIRMAN: Delegate Schloeder.

2 DELEGATE SCHLÖEDER: Mr. Chairman, at this time
3 the Committee yields three minutes to Delegate Needle.

4 THE CHAIRMAN: Delegate Needle.

5 DELEGATE NEEDLE: Mr. Chairman, as a Member of
6 the Local Government Committee, I have been committed while
7 here in Annapolis to the proposition of creating more viable
8 and visible local governments.

9 I call your attention to the overwhelming support
10 that you gave the Committee Recommendation LG-1, which
11 passed through this body with unprecedented speed.

12 That indicates your strong feeling about the
13 creation of more viable County governments and I submit that
14 the Majority recommendation of the Suffrage and Elections
15 Committee creating separate elections for County govern-
16 ments is a concomitant to LG-1 and a very, very essential
17 element for you to pass in order to create those more viable
18 County governments.

19 Point three, on page three and point five on page
20 four of the Minority Report S & E-2A on this subject matter
21 points out that the people just don't seem to be very

1 interested in local issues and local candidates. How do
2 they propose that we solve the problem which is created by
3 virtue of County officials and issues being discussed and
4 voted upon at the same time State issues are - which is the
5 present system. They want for us to retain the present
6 system. How in the world does that solve the problem?

7 I submit that that is the best argument for
8 change. To have separate County elections is the way to
9 focus attention and to place the spotlight on County issues
10 and County candidates. We all know it is difficult to get
11 information now on what local candidates and local issues
12 under the present system because the mass media naturally
13 gives the bulk of its attention to Federal issues and candi-
14 dates and State issues and candidates.

15 Why relegate the local issues and candidates to
16 an inferior position by making them run along with State
17 officials?

18 Separate elections for the County is very likely
19 to increase voter participation at each level especially the
20 local level. As is indicated by the Baltimore City experi-
21 ence. Baltimore City apparently feels very strongly that

1 they should retain their present system of having their
2 separate elections without being encumbered by electing
3 officials at any other level of government at the same time.
4 The Minority wants to make a special exception for Baltimore
5 City. What's good for Baltimore City it has proved good for
6 Baltimore City, should certainly be good for the local
7 County governments as well.

8 THE CHAIRMAN: You have one-quarter minute, Dele-
9 gate Needle.

10 DELEGATE NEEDLE: We should not make a special
11 exception for the government of Baltimore City. Local
12 government article said Baltimore City from now on would be
13 considered a County and therefore, all Counties should have
14 their elections at the same time as Baltimore City in a
15 separate year.

16 I strongly urge you to support the Majority
17 Report and defeat this amendment.

18 THE CHAIRMAN: Delegate Byrnes.

19 DELEGATE BYRNES: Mr. Chairman, I would like to
20 yield three minutes to Delegate Cardin.

21 THE CHAIRMAN: Delegate Cardin.

1 DELEGATE CARDIN: Mr. Chairman, Fellow Delegates,
2 I will not speak to the merits of the exception in the
3 Minority amendment. I would prefer to speak to the merits
4 of the frequency of elections as we recommended which is
5 only every two years.

6 The testimony that was brought before us and
7 witnesses who spoke to us were almost unanimous in stating
8 that the less frequent the election, the greater the turn-
9 out at the election. The Maryland Association of Election
10 officials who should be, and I believe are, the most quali-
11 fied to discuss the validity of frequent elections or less
12 frequent elections, sent us a letter stating very clearly
13 and I quote, "The Association which is made up of all of the
14 elected officials of the State of Maryland wishes to go on
15 record as opposed to annual elections." I find similar
16 opposition to elections three years out of every four because
17 this would in view of the intolerable administrative burden
18 this would impose on Boards of Supervisors of Elections
19 throughout the State and the additional financial burden of
20 the taxpayers of the Counties involved.

21 We then went out of the State and we went to Mr.

1 Henry Main and received from him a consensus of the political
2 scientists who have thought longest and hardest about
3 American Government and we are all concerned about voters'
4 turn-out. Their analysis is that the theoretical desirable
5 objective of separating elections is in practice by no means
6 a step toward good government. Rather, it creates a lower
7 voter turn-out.

8 Then we went to our own Dr. Loevy, Research
9 Assistant here, Professor at Goucher and in his report two
10 main items for increasing voter turn-out and assisting
11 elections states: One, reduce number of overseers - we have
12 already done that - and two, reduce frequency of elections.

13 It is no accident or no mere whim that we suggest
14 this. But to be a little more practical, we will go one
15 step further.

16 The pressures that will be created by the new
17 Home Rule adopted by the other 19 counties that we have now
18 instituted will be tremendous. You are recommending or being
19 recommended in the Committee Recommendation to add an
20 additional pressure of another election, with the costs to the
21 Counties of that election, with the pressures on the County

1 officials of that election and the pressure on the residents
2 of that County.

3 Having been active in some politics at the local
4 level, I can say the money required to run for office by an
5 independent today has spiraled to almost monumental cost.
6 If you make elections almost annually, you will make it
7 prohibitive for the independent who wishes to file and call
8 on independent volunteer groups to assist him to run, you
9 will then be forcing the party groups to go to the same
10 residents and citizens year after year asking for
11 solicitations, asking for assistance. It will be
12 insurmountable. What will happen is the average voter will
13 not come.

14 I suggest to you that you think this over very
15 carefully. We have discussed with many of the Delegates
16 the disadvantages of more frequent elections and they far,
17 far outweigh the few possibilities that would occur if you
18 allow the off year.

19 One final point. There is a possibility in the
20 new local government of staggered terms and this is a
21 possibility which we wish to offer to the new government.

1 If we have an off-year election in '71, you will force
2 elections annually because staggered terms would then have
3 to be one, three and five. You could not possibly institute
4 it any other way.

5 I suggest you leave total freedom by leaving
6 elections to even years.

7 THE CHAIRMAN: Delegate Schloeder.

8 DELEGATE SCHLOEDER: At this time, the Committee
9 would like to yield three minutes to Dr. Winslow.

10 THE CHAIRMAN: Delegate Winslow.

11 DELEGATE WINSLOW: Mr. Chairman, point of personal
12 privilege, If I may, first.

13 THE CHAIRMAN: State the privilege.

14 DELEGATE WINSLOW: There are in the gallery above
15 my head 73 students from the Ridgely Junior High School in
16 Baltimore County together with their teachers, Mrs. Johnson,
17 Mr. Webb, Mr. Bennett and Miss Knachel. I hope the Committee
18 will join me in welcoming them to this Assembly. (Applause.)

19 THE CHAIRMAN: Delighted to have them.

20 The Chair now recognizes you for three minutes of
21 debate, Delegate Winslow.

1 DELEGATE WINSLOW: Thank you, Mr. Chairman.

2 I rise with some fear after the remarks of the
3 last speaker, who quoted an associate of mine from Goucher
4 College on her side of the fence. I have great respect for
5 my Colleague. I helped to bring him to Goucher College.
6 But I point out to the Assembly that he is still a young man.
7 I should like to speak particularly to the third portion of
8 this recommendation of the Committee.

9 I do this in spite of the fact that if I had been
10 making this speech 20 years ago, I would have been on the
11 other side. But it seems to me that what has happened is
12 that we now in our elections tend to confuse local and
13 State or national policies. We do not have from any political
14 party a program, a platform for local affairs. Instead, we
15 are called upon to elect our County officials along with our
16 State officials and the only program which is presented to
17 us in elections is on State questions, questions of State
18 Bond issues or questions of State road policies, but with no
19 attention paid to what is going on or what has been going on
20 in the Counties. Or, we elect our County officials because
21 there is a man of some glamor running for the position of

1 Governor or U. S. Senator or U. S. House of Representatives.
2 It is time I think we divorced local affairs of this nature
3 from the State party political programs and put the local
4 governments, local units, local people strictly on their
5 own in consonance with their power.

6 THE CHAIRMAN: Delegate Byrnes.

7 DELEGATE BYRNES: Mr. Chairman, what is my time
8 residue?

9 THE CHAIRMAN: I think you have about eight minutes.

10 DELEGATE BYRNES: I would like to yield four
11 minutes, if I may, to Delegate Hanson.

12 THE CHAIRMAN: Delegate Hanson.

13 DELEGATE HANSON: Mr. Chairman, I think it is very
14 important that the amendment offered by Delegate Byrnes be
15 adopted by this Committee of the Whole. He and others who
16 have spoken have already pointed out the importance to turn
17 out combined elections. Let me emphasize another aspect
18 of the turn-out problem. That is, that as turn-out as a
19 gross number of voters declines, the decline is greatest
20 among the voters of the lowest income and the lowest on the
21 social economic scale. This means that separate County

1 elections hurt most the lowest income people in our
2 communities. They are inclined to participate the least in
3 these elections.

4 Secondly, I should like to point out that if we are
5 going to solve the problems of this State and the communities
6 in this State, we need the cooperative and integrated action
7 of the State government and the local governments. We do
8 need to make local governments strong and responsive and we
9 do need to make State government strong and responsive, but
10 an important part of the political process in this or in any
11 State is so to structure the political process that State
12 officials have to take account of and consider in their
13 politics local problems and so to structure the government
14 and so to structure the political system that local
15 officials must take into account State considerations when
16 they run for office.

17 It would be a tragic mistake to freeze into the
18 Constitution an isolation of local politics from State
19 politics. Politics is not something that can be neatly
20 subdivided by geographic boundaries and say this is local,
21 this is State. This is particularly true when we deal with

1 the problems of our burgeoning suburbs, our State growing
2 areas, conservation problems, natural resource problems,
3 human resource problems. We need the coordinated political
4 action of officials at both the local and the State level
5 of Government.

6 This, I think, is a most important aspect of the
7 present political system in Maryland and a considerable
8 advantage of the present political system in Maryland over
9 one which says we will just vote on local questions this year,
10 we will not pay any attention to State questions and in two
11 questions or next year we will just vote on State questions
12 and we won't pay any attention to local questions.

13 I have enough faith in the electorate of this
14 State that they can distinguish candidates for local and
15 State office. I ran twice in campaigns in which we combined
16 either State and Federal officials or local and Federal
17 officials and to my immense chagrin, the people in my County
18 have been able to distinguish between these levels of office.

19 While I may feel that I have unjustly suffered
20 by the system, I believe the system is nonetheless correct.
21 I think we should maintain it because I think it brings

1 together those things which ought to be together in a govern-
2 ment.

3 THE CHAIRMAN: You have one-half minute, Delegate
4 Hanson.

5 DELEGATE HANSON: I think that this Committee
6 should very carefully consider this proposition. For us to
7 favor the Report of the Committee is to encourage a
8 disintegration of the political system of the State. For
9 us to favor the motion of the Minority of the Committee is
10 for us to encourage to the highest extent possible consistent
11 with the political traditions and practice of this State a
12 close working relationship between State and local Govern-
13 ment, a relationship that I believe is fundamental and
14 essential to the solution of the problems of both the State
15 and the localities.

16 I urge you to support the amendment.

17 THE CHAIRMAN: Delegate Schloeder.

18 DELEGATE SCHLOEDER: The Committee at this time
19 would like to yield three minutes to Delegate Clagett.

20 THE CHAIRMAN: Delegate Clagett.

21 DELEGATE CLAGETT: Mr. Chairman, Ladies and

1 Gentlemen of the Committee of the Whole, I concur with
2 what has been said by Delegate Needle and Delegate Winslow.
3 I cannot disagree with what Delegate Child said yesterday,
4 that more voters turn out at the larger elections than at the
5 local elections. But nevertheless, I think what we are
6 striving for here is not necessarily numbers alone, but
7 responsible people voting. We certainly have responsible
8 people voting for our election as Delegates to this
9 Convention. We regret there were not greater numbers but
10 nevertheless we cannot but appreciate that the quality of
11 those voters was great and particularly as we analyze it
12 individually in our own individual cases.

13 With respect, however, to what was said by Dele-
14 gate Hanson, I do not believe that you can ever separate
15 the inter-relationship of local and State affairs. They are
16 two intertwined or twined one with the other. However,
17 what we are striving for and which the Majority of the
18 Committee now recommends is not the separation of that inter-
19 relationship, but the separation and distinction of
20 individuals who represent the opposite views, if not opposite,
21 at least at different levels, the local and State.

1 By this separation of date, we do have an oppor-
2 tunity to identify the individuals and to identify and sepa-
3 rate the issues to the extent they are susceptible of being
4 separated and identified.

5 In this period and time of exploding population
6 and great change, the necessity for identification and under-
7 standing of the difference in responsibility between the
8 local and the State and the National levels is made all the
9 more necessary. The whole effort of the Local Government
10 Committee has been to separate the State and local responsi-
11 bilities and to require the State to take care of its level
12 of responsibility but likewise to strengthen and enable the
13 local governments to meet and to take care of their responsi-
14 bilities.

15 We are now by Section 703 requiring that every
16 County shall have its own instrument of government. What does
17 that mean? That means they will have to collect --

18 DELEGATE CLARK: You have 30 seconds.

19 DELEGATE CLAGETT: -- from 5 to 15 individuals
20 who will make up the council of that County, as well as other
21 officials that will be elected by the County having been

1 separated from the Constitutional status they formerly had.

2 That means that we are going to have to give
3 attention to a ballot which will be one where we will know
4 who we are voting for and why. You cannot do it, the last
5 election showed us, by confusion of names, by number of
6 names, the impossibility --

7 DELEGATE CLARK: Your time is up.

8 DELEGATE CLAGETT: -- of identification of indi-
9 viduals and what they stood for.

10 I strongly urge that you support the Majority
11 Recommendation in this instance.

12 DELEGATE CLARK: The Chair recognizes Delegate
13 Byrnes. You have three and a half minutes, sir.

14 DELEGATE BYRNES: I would like to yield one and
15 a half minutes to Delegate Hodge Smith.

16 DELEGATE CLARK: The Chair recognizes Delegate
17 Smith.

18 DELEGATE H. SMITH: Mr. Chairman and Fellow Dele-
19 gates, I am in favor of change if I thought any real thing
20 would be accomplished by it but I don't think any good will
21 be accomplished by this. As one of the Eastern Shore

1 witnesses who appeared before our Judicial Branch Committee
2 put it so beautifully, I could put hogs in my living room,
3 that would be a change, but it wouldn't necessarily do any
4 good.

5 For the reasons already given, I support the
6 amendment but there is an additional reason which I think
7 is very important. That is, the cost of these elections.

8 I have figures for Montgomery County for the
9 1964 primary and general elections, cost the County \$136,000.
10 That was in '64. In '66, the primary and general elections
11 cost us \$166,000. The special election for Delegates to
12 this Convention cost \$65,000.

13 Rose Dawson of the permanent Board of Registry
14 says this is to be expected that such costs will increase
15 with every election since our workload is directly
16 proportional to population of the County and that population
17 is growing very rapidly.

18 DELEGATE CLARK: The Chair recognizes Delegate
19 Schloeder. Delegate Schloeder, you have eight and a half
20 minutes left to allot.

21 DELEGATE SCHLOEDER: Thank you, sir.

1 At this time the Committee yields three minutes
2 to Delegate Rybczynski.

3 DELEGATE CLARK: The Chair recognizes Delegate
4 Rybczynski.

5 DELEGATE RYBCZYNSKI: Mr. Chairman, we have heard
6 a lot of talk about improvements with no regard to the degree
7 of money and today, or last night for the first time, we
8 talked about how much is all this going to cost. I would
9 suggest that if the cost of \$18,000 or \$20,000 to the
10 County every four years is going to be a major consideration,
11 let's start from page one and do this all over again.

12 We are talking about visibility; talking about
13 getting quality in office. After all the testimony that we
14 heard, we concluded that perhaps the system used in the
15 City of Baltimore is the best one after all. No one has
16 attempted last night or today to answer the example given
17 about Ruby's theory, or whatever that name was, up in North
18 Carolina about the ferry boat coming into the dock. What do
19 you do about the situation where a bad candidate on a local
20 level attaches himself to a good candidate on the State or
21 National level? He merely rides in on the coattails and

1 no one realizes what they have done for the first six months.
2 After that, they wonder how they could be so stupid in the
3 first place for electing him in office.

4 But that's the way it is done. It is done
5 nationally and we are trying to stop it by what we have done
6 in our Majority Report.

7 Using Delegate Hanson's theory of attaching the
8 two levels of government together, let's say we carry this
9 to the ultimate. Why don't we just have one election every
10 four years? That way we can elect everybody from the Presi-
11 dent to Dogcatcher and put everybody into one caboodle. If
12 we worry about Congressmen every two years, we can use a
13 system of Commissioners and have Commissioners picking the
14 Congressmen during the off-year election time.

15 So that, Ladies and Gentlemen, we gave this thing
16 a lot of thought. We considered it from every aspect. We
17 worried about the money. We worried about visibility. After
18 listening to all testimony, we concluded the best way to do
19 this thing is to make every candidate on every level stand
20 on his own two feet. If he has a good program, if he can
21 sell it to the people, he will get himself elected. He will

1 not merely be the residue of a larger ticket on the next
2 higher scale.

3 I would like to answer just one more argument put
4 forth by the Minority. That is, what looks to be a terrible
5 thing in using offices as stepping stones. This goes on
6 again at every level. United States Senators run for
7 President. Governors run for President. There is no harm
8 in this. I find good in this. I find good in the fact that
9 a man would use his experience, his time in office as
10 stepping stones for the next higher office. I find this good
11 and not bad. We ask you to support the Majority Report.

12 Thank you.

13 DELEGATE CLARK: The Chair recognizes Delegate
14 Byrnes to allot two minutes.

15 DELEGATE BYRNES: I would like to withhold those
16 two until Delegate Schloeder has completed.

17 DELEGATE CLARK: Delegate Schloeder.

18 DELEGATE SCHLOEDER: Mr. Chairman, at this time,
19 the Committee would like to yield three minutes to Delegate
20 Dulaney.

21 DELEGATE CLARK: The Chair recognizes Delegate

1 Dulaney.

2 DELEGATE DULANEY: Mr. Chairman, Fellow Delegates,
3 what we are trying to do here is to establish, I think, strong
4 local government that will set its own policy and one where
5 the people will be aware of the problems.

6 I think this is one area where we can help that.
7 I think we should look at the cold, practical politics for
8 a minute and not be ridiculous when we say it makes no
9 difference on whose ticket you run because I well know from
10 my political experience that some will pay dearly almost to
11 get on someone's ticket if it is the right ticket, makes no
12 difference what National or State candidate, and if he is
13 running in a local election.

14 I know, for example, in our County of an example
15 of a person who got on a ticket merely to fill a slot, was
16 carried into office, resigned after being elected because
17 he didn't want the office. He was on a winning ticket of a
18 State candidate. This is the sort of thing we will be
19 confronted with if we have State and local elections
20 confused or confused with National elections. We here are
21 trying to shorten the ballot but on the local level we may

1 not be.

2 The candidates we are taking off the ballot in
3 the local areas are administrative officials who are not
4 policy makers. We are setting up a local government where
5 we will be electing policy makers at a local level. These
6 men should be able to run on local issues or policy at
7 local level free from interference or influence by State
8 and National politicians and State and National elections.
9 I am not saying for a moment there is no relation or inter-
10 relation between local and State government or local and
11 National government. But these men should have a chance to
12 express themselves.

13 I might also state when a local candidate is
14 running for office, many times he is lost in the rush. He
15 can't even find a place to put up his sticker - no room for
16 a bumper sticker. Every local candidate, when there is a
17 strong State or National candidate running, this might sound
18 trite and small, but I say it is important in order to have
19 effective enlightened local government we have to have
20 effective and enlightened electorate. If the local issues
21 are lost in State and National issues, then I think our

1 local government is going to be weakened.

2 I urge you to defeat the amendment and support
3 the Committee Report.

4 DELEGATE CLARK: Delegate Schloeder, you have
5 two and a half minutes yet to allot.

6 DELEGATE SCHLOEDER: Mr. Chairman, I would like
7 to hold that for myself and speak whenever I am supposed to.
8 Either before or after the Minority, it doesn't make any
9 difference.

10 DELEGATE CLARK: I think the order of things,
11 Delegate Byrnes, do you want to use your two minutes now?

12 DELEGATE BYRNES: I would like to, I will.

13 I think the issue comes down to a very simple
14 proposition. I think politicians would say that of course
15 we don't want to run with someone else; we want to have the
16 opportunity to run in an odd year and use all our time in
17 office to get publicity and run for the next level. We
18 don't want to be committed to this guy we have to run with.
19 I think we ought to be talking about interest of the people.
20 It is clear in my mind in the interests of the people to
21 have tickets in a County to have County officials and State

1 officials working in harmony in the campaign, then working
2 in harmony thereafter. To have the offices create tension
3 between County and State officials in office, I think, would
4 be disastrous. I have never at any time on this floor
5 defended nor criticized the present system in Baltimore City.
6 It is not the issue. I have not addressed myself to it. It
7 proves nothing when you look at their statistics on either
8 side of the case.

9 The Majority is the one that is trying to suggest
10 a change. I have taken the floor to present to you the other
11 side of that picture. There are many in the Counties who do
12 not want that change. There are many in the city who do not
13 want that change, either. I suggest to you the simple propo-
14 sition you have before you, do you want to create a system
15 of elections which by all the experts produces a very low
16 turn-out and that low turn-out reduces the influence of the
17 poor and the independents. Do you want to produce a system
18 of elections which creates between the County and State
19 officials legislative and executive stress and strain which
20 is clearly not in the best interests of government on both
21 levels? That is the issue before you, Ladies and Gentlemen,

1 I urge you to adopt the amendment of the Minority.

2 Delegate Clark: The Chair recognizes Delegate
3 Schloeder for two and a half minutes.

4 DELEGATE SCHLOEDER: Mr. Chairman, Ladies and
5 Gentlemen, there was no attempt on the part of the Committee
6 to in any way say that there was no inter-relationship
7 between levels of government. In answer to Delegate Hanson's
8 argument, we want only to hold elected officials responsible
9 for those areas of these problems that they can do something
10 about. That is all we want to do. We feel our system does
11 just this.

12 I also find it intriguing, the argument against
13 the constant discussion of candidates and issues. It is
14 especially interesting when this argument comes from those
15 who would like to be most identified with enlightened causes.
16 It seems to me that the constant discussion of issues and
17 candidates could be nothing but a good effect upon any
18 elective system.

19 The cost of this Majority Report would not be
20 prohibitive. It would amount to about one-tenth of one
21 percent of the total County budget in each County. We feel

1 that the visibility that would be provided, the good govern-
2 ment that would be provided is certainly worth one-tenth of
3 one percent of the County budget.

4 As far as the poor and independent not voting on
5 a particular level of election, I would submit that the poor
6 don't vote and the independents don't vote, not because of
7 frequency of elections but because the candidates that are
8 running for office are candidates that are not easily identi-
9 fied by the poor and by the independents.

10 I would hope that you would support the Committee
11 Recommendation which would allow Baltimore City to continue
12 its present system of elections and would allow the Counties
13 to have their elections at a time when visibility and
14 responsibility --

15 DELEGATE CLARK: You have thirty seconds.

16 DELEGATE SCHLOEDER: -- would be most advantageous.

17 For those reasons, I ask you to support the
18 Committee on this Recommendation.

19 Thank you.

20 DELEGATE CLARK: We now come to the uncontrolled
21 time and the Chair recognizes Delegate Macdonald. Do you

1 want to offer your amendment at this time?

2 DELEGATE MACDONALD: I will offer my amendment
3 at this time.

4 DELEGATE CLARK: What is the number on your
5 amendment, Delegate Macdonald?

6 DELEGATE MACDONALD: I don't have the copy.

7 DELEGATE CLARK: I don't, either.

8 Delegate Macdonald, do you know what letter is
9 on your amendment?

10 DELEGATE MACDONALD: I do not.

11 DELEGATE CLARK: When did you ask for it to be
12 prepared?

13 DELEGATE MACDONALD: Yesterday, last evening. I
14 asked the Page for a copy about 20 minutes ago and they
15 didn't seem to have one.

16 DELEGATE CLARK: We will just have to wait a
17 moment until we locate the amendment. It should be here.

18 The Chair rules your amendment is not germane to
19 the other amendment and will have to be offered later.

20 DELEGATE MACDONALD: I might point out that I
21 think the sponsor of the amendment which is now pending,

1 namely Amendment 14, would accept this as an amendment to the
2 amendment but if the Chair would rule it would not be germane,
3 we would hold it until after Amendment 14 is passed.

4 DELEGATE CLARK: I think that's what we will have
5 to do.

6 Delegate Dukes.

7 DELEGATE DUKES: At what point would it be
8 appropriate to inquire as to whether or not this question is
9 divisible and request division?

10 DELEGATE CLARK: At the time we would vote on the
11 question would be the proper time.

12 Delegate Dukes, are you talking about Amendment
13 14, is that right?

14 DELEGATE DUKES: Yes, I guess it is 14.

15 DELEGATE CLARK: You can demand division
16 of the question at any time.

17 DELEGATE DUKES: If it is is divisible, it seems
18 to me it is, I would request it be divided.

19 DELEGATE CLARK: As I understand it, Delegate
20 Dukes, you want division of the question of the two parts
21 that are referred to?

1 DELEGATE DUKES: My position essentially is
2 whether or not State and County elections ought to be held
3 together is one question and whether Baltimore City ought
4 to be treated separate from everybody else is another.

5 DELEGATE CLARK: All right, sir.

6 The Chair recognizes Delegate Byrnes just to
7 oppose the division, sir.

8 What is your question?

9 DELEGATE BYRNES: I wanted to oppose the division.
10 Has the Chair ruled?

11 DELEGATE CLARK: The Chair has to rule that there
12 can be a division of the question.

13 Delegate Schloeder.

14 DELEGATE SCHLOEDER: I just rose to say the
15 Committee would certainly be willing to divide the question.

16 DELEGATE CLARK: Amendment Number 14 is divided
17 into two parts, first part being lines 1 through three and
18 second part being lines 5 through 7. The amendment is open
19 for discussion.

20 The Chair recognizes Delegate Marion.

21 DELEGATE MARION: Mr. Chairman, if the first part

1 of this now divided question is adopted, and the second
2 part is not adopted, don't we end up with an inconsistency
3 in that we have used County elections in two places in the
4 Committee Recommendation, but if the Committee of the Whole
5 should take that action --

6 DELEGATE CLARK: It would mean we would have a
7 standard situation over all the State rather than what is
8 now divided.

9 Delegate Marion.

10 DELEGATE MARION: Mr. Chairman, my point is this:

11 If that portion of the amendment in lines 1
12 through 3 were to be adopted, it would mean inserting County
13 officials in line 22 in the second paragraph of Section 7
14 of the Committee Recommendation, but if lines 5 through 7
15 of the amendment were to be defeated, that would mean the
16 word "County" would remain in line 27 in the third paragraph
17 of the Committee Recommendation, thus creating an
18 inconsistency. Therefore, I wonder whether or not the
19 question is truly divisible.

20 DELEGATE DUKES: If there is any question, I would
21 be happy to have the sponsor strike the second part.

1 DELEGATE CLARK: The Parliamentarian advises me
2 there are two different questions in the amendment and that
3 they certainly can be voted on separately, even if they do
4 create an inconsistency.

5 The Chair recognizes Delegate Gallagher.

6 DELEGATE GALLAGHER: Mr. Chairman, Ladies and
7 Gentlemen of the House, would the Chair give permission to
8 the Baltimore City Delegates in the Committee of the Whole
9 to assemble outside in the lounge for a few moments to
10 discuss one aspect of this entire matter?

11 DELEGATE CLARK: If there is no objection, that
12 permission is granted.

13 The Chair recognizes Delegate Byrnes.

14 DELEGATE BYRNES: Mr. Chairman, can we have a
15 quorum call so we can round up the ones who are around?

16 DELEGATE CLARK: The Clerk will ring the quorum
17 bell.

18 The absence of a quorum has been suggested.
19 Would everyone present indicate their presence. You didn't
20 suggest the absence of a quorum. Just ring the bell. The
21 roll call will not be necessary. Absence of a quorum was

1 not suggested. The Gentleman just asked that we ring the
2 quorum bell.

3 The Chair recognizes Delegate Schloeder.

4 DELEGATE SCHLOEDER: Mr. Chairman, now that the
5 City Delegation is meeting in caucus, I wonder if the
6 Majority of the Committee could have some sort of colonial
7 act or legislative act to sit in on those proceedings?

8 DELEGATE CLARK: Does anyone desire to speak on
9 the amendment?

10 Delegate Macdonald.

11 DELEGATE MACDONALD: Mr. Chairman.

12 DELEGATE CLARK: The Chair recognizes Delegate
13 Macdonald.

14 DELEGATE MACDONALD: In view of the fact that the
15 very important contingent of this Committee of the Whole is
16 not present, I would move that the Committee rise for the
17 purpose of asking the Convention to take a short recess until
18 our Delegates from Baltimore City return. I think this
19 question before the House is important and that they should
20 be here to hear the very valuable debate.

21 DELEGATE CLARK: The Chair would suggest they will

1 be only a very few moments probably and if we wait a minute,
2 I think they will be right back here.

3 The Chair recognizes Delegate Kiefer.

4 DELEGATE KIEFER: Mr. Chairman, while the Balti-
5 more City Delegation is out, do you suppose it would be
6 appropriate at this point for us to submit a little amendment
7 that Delegates Wiedemeyer, Hostetter and I have had in the
8 back of our pockets a long time, namely, to re-establish
9 the monarchy?

10 DELEGATE CLARK: Delegate Scanlan.

11 DELEGATE SCANLAN: In this interlude, I can
12 report for the first time in this Convention my Colleague,
13 Delegate Wiedemeyer has become shy. He has a perfectly
14 brilliant suggestion which shows the way out of this impasse.
15 Since he has refused to rise and present it, I will present
16 it for him.

17 Delegate Wiedemeyer says we don't have to worry
18 about the revenue from the lottery, we are in good shape,
19 raised income tax, all the money we need. Why not junk both
20 Majority Recommendation and Minority Recommendation and hold
21 an election every other Thursday?

1 DELEGATE CLARK: The Chair recognizes Delegate
2 Clarke.

3 DELEGATE CLARKE: Mr. Chairman, Ladies and
4 Gentlemen of the Convention, during this lull, I would like
5 to report that I just received a phone call from my daughter,
6 and my grandson will be named Edward. (Applause.)

7 DELEGATE CLARK: Happy to hear that!

1 DELEGATE CLARK: Delegates will please take
2 their seats so that the Committee can get back to work.

3 The Baltimore City delegation has completed
4 their caucus. The Delegates will please take their
5 seats.

6 We now have twenty minutes of uncontrolled time
7 to speak on this amendment.

8 The Chair recognizes Delegate Chabot.

9 DELEGATE CHABOT: I rise in opposition to
10 the amendment. I agree with Delegates Byrnes and
11 Hanson that it is important for us to consider whether
12 or not there are some sorts of people who in general
13 don't come out to vote when there is visibility in the
14 election, and it was for this reason that I engaged
15 in the questioning with Delegate Byrnes last evening
16 to find out just what the situation is when we have
17 combined elections, as in the counties, or separated
18 elections, as in Baltimore City. It was for this
19 reason that I established that the head of the Baltimore
20 City government, the Mayor, has on the average gotten
21 a total of 97-1/2 per cent as many votes as were

1 cast in the election for the head of the State government.
2 There has been a drop-off of only two and a half per cent
3 when you separate the election.

4 All the people or almost all the people, in
5 fact, do come out for a local election when the local
6 election is at the top of the ticket and the most important
7 thing in the newspapers.

8 What is the situation in the counties when
9 the local officials are running on the same ticket,
10 when they are not at the top of the ticket, when the
11 local government is to be found somewhere down on the vot-
12 ing machine? How many people then, of those that come
13 out to vote for Governor, finally end up casting ballots
14 for the head of the local government?

15 These counties, and these are only samples,
16 were not selected by me or by any member of the Majority
17 in order to prove our point. These were the counties
18 that were selected as samples by those who offered
19 the Minority amendment, and it shows that in contrast
20 to Baltimore's drop-off of only two and a half per
21 cent, Anne Arundel, in the last three statewide

1 elections has had a drop-off of 17 per cent. 17 per
2 cent of the voters who came to the polls did not bother
3 voting for the head of the county government.

4 In Price Georges County, 10 per cent of the
5 voters who came to the polls did not bother voting for
6 the head of the county government.

7 In Montgomery County, 7 per cent of the
8 voters who came to the polls didn't bother boting for
9 the head of the government.

10 In Baltimore County, 5 per cent of the voters
11 who came to the polls did not bother voting for the
12 head of the government.

13 Garrett County showed up best, 4 per cent did
14 not vote for the head of the government, but every single
15 one of these counties did worse than Baltimore City.

16 When you separate out the elections, the
17 people do come and do vote.

18 DELEGATE CLARK: Does anyone desire to speak
19 in favor of the amendment?

20 The Chair recognizes Delegate Winslow.

21 DELEGATE WINSLOW: Mr. Chairman, I hesitate

1 to rise again, but I must keep history straight if I can.

2 It was announced on the floor that Professor
3 Loeve was supporting the Minority position. This sur-
4 prised me a little, and therefore I have conferred with
5 him, and his answer is that he has been thoroughly mis-
6 understood, that he is on the contrary 100 per cent for
7 the Majority Report.

8 DELEGATE CLARK: Does anyone wish to speak
9 against the amendment?

10 The Chair recognizes Delegate Hopkins.

11 DELEGATE HOPKINS: I rise to oppose the
12 amendment and speak in favor of separation of elections.

13 Delegate Byrnes mentioned the interests of
14 the people. I think the interests of the people are
15 best served by the best candidates possible. I object
16 to a qualified person who is thinking of running for local
17 office having to make up his mind partly on the basis
18 of whether the party he is in is going to have a good
19 year or not at the top level, be it the state or
20 presidential.

21 I think this should not be part of the decision
of a candidate to run for local office.

1 There is also the problem of finances, not
2 from the point of view of what it costs the state, but from
3 the point of view of what it costs to be elected. If
4 you are running for office, you all know you need to get
5 on television, get in the papers, buy ads, and all
6 these things cost a great deal of money.

7 You also know that there is only so much
8 political money that can be raised at one time, and
9 obviously at the top of the ticket, when you have an
10 election at the state or federal level, most of the
11 money is being contributed there and the candidate
12 running at the local level is hard put to find finances
13 to finance his own campaign and put himself across.
14 Therefore, he is either swept in with the top of the
15 ticket, or a good man loses because he is on the wrong
16 side of that election.

17 People have referred on this floor today
18 to the voluntary organizations and the interest of being
19 kind to them and not overworking them. I am also
20 interested in the voters, and I know there is voter
21 confusion when there are several levels of government

1 on one ballot, and more names. People are confused
2 when there are two districts for one election, so in
3 the interests of the voters also, I urge the separation
4 of these elections and the defeat of this amendment.

5 DELEGATE CLARK: Does anyone desire to speak
6 for the amendment?

7 The Chair recognizes Delegate Burdette.

8 DELEGATE BURDETTE: Mr. Chairman, I rise
9 to speak for this amendment on the principle that in
10 many of the counties throughout the state there is
11 very great doubt, specially in the metropolitan areas,
12 whether we could have a large turnout in a purely
13 county election.

14 I support the amendment also because,
15 speaking entirely as a non-partisan, I believe in the
16 building of the two-party system in this state, and
17 I believe in the principle that we should expect
18 county officials who are successful in our state to
19 become identified as candidates for higher level
20 positions in the state.

21 I believe it immensely important that county

1 officials be able to work closely with state officials,
2 that there needs to be a very great cooperative under-
3 standing at this level, and I think we attain these
4 ends most successfully by having them run together in
5 a general discussion of state and local issues.

6 There is also the issue of expense, which I could
7 regard as secondary but not inconsequential. The pro-
8 posal to have an off-year election for local county
9 officials will involve very substantial expense to the
10 taxpayer with the very great risk that a comparatively
11 small number of the taxpayers will turn out.

12 DELEGATE CLARK: Does anyone desire to speak
13 against?

14 Delegate Boyce.

15 DELEGATE BOYCE: Mr. Chairman, I was pleased
16 that Delegate Gallagher saw fit to have the Baltimore
17 delegation meet.

18 Basically we have a physical impossibility on our
19 voting machines to combine our elections either way. If
20 we take the questions of loads on the ballot in the
21 General election and put that with the questions of the

1 state and then combine the local offices with the state
2 and federal offices we literally can't do it.

3 We say to you, as a result of this one thing,
4 we do think that the city election should be kept separate.

5 At the same time, none of us in Baltimore City
6 are in any way attempting to say that such and such
7 should be done in the county as far as your elections
8 are concerned. I was very much taken with what my
9 fellow district delegate, John Byrnes, had to say, and
10 I really would have liked to have voted with him, but
11 it seems apparent to me that if you want to make sure
12 that Baltimore City maintain the odd-year election,
13 then I think we are going to have to vote against each
14 of the amendments as I see them coming to the floor,
15 and consequently I am asking that the Baltimore City
16 delegation be understanding that this is something
17 that the counties may well wish to amend in some other
18 way.

19 As far as we are concerned, I would like to
20 see us -- and I shall do so -- vote with the Majority
21 Committee recommendation.

1 DELEGATE CLARK: The Chair recognizes
2 Delegate Bard for the amendment.

3 DELEGATE BARD: Mr. Chairman, may I ask a
4 question, and then I would like to say a few words?

5 I would like to ask whether it would be
6 possible, should the amendment fail would it then be
7 possible for us to change paragraph 2 so that the
8 counties might decide for themselves whether or not they
9 choose to have the separate election year -- in other
10 words, some, the larger ones, deciding if they wish
11 to have a separate election while smaller ones perhaps
12 might decide to keep it on with the gubernatorial
13 election.

14 DELEGATE CLARK: The Chair understands
15 there is an amendment to be offered to allow the
16 General Assembly.

17 Delegate Raley.

18 DELEGATE RALEY: Mr. Chairman, I think that
19 maybe we ought to let you know that we are going to
20 offer an amendment, by myself, Hanson and Scanlon,
21 which in effect would solve the whole problem and

1 wouldn't have the major demerit of what either this
2 amendment or the committee report has of locking these
3 things in and leaving it up completely to the General
4 Assembly. We can't foresee what changes might be
5 needed, so we are going to offer an amendment then at
6 the proper time, whenever that is, that will allow the
7 selectibility, which I think would be a happy solution
8 to the entire problem.

9 DELEGATE CLARK: Amendment 14 is the one
10 before us and the one we must vote on first.

11 Dr. Bard, do you wish to speak for the amend-
12 ment?

13 DELEGATE BARD: No. I would just like to
14 say, Mr. Chairman, on a matter of personal privilege,
15 that in light of your comment it seems to me that Mr.
16 Boyce's remarks in regard to the city delegation are not
17 in order.

18 The City delegation, it seems to me, would
19 be free to vote as individuals on this question,
20 recognizing that the amendment would clarify the issues
21 which trouble them.

1 DELEGATE CLARK: The Chair recognizes Delegate
2 Gilchrist.

3 DELEGATE GILCHRIST: Would Delegate Bard yield
4 for a question?

5 DELEGATE CLARK: Delegate Bard, would you
6 yield for a question?

7 DELEGATE BARD: I don't have the floor, but
8 I will be glad to yield.

9 DELEGATE CLARK: Delegate Gilchrist.

10 DELEGATE GILCHRIST: Delegate Bard, under
11 your proposal, what you mean is that you would leave
12 the Delegates free to stick the other counties in the
13 state with what Baltimore City wants regardless of
14 whether they want it or not?

15 DELEGATE CLARK: Delegate Bard.

16 DELEGATE BARD: I haven't said anything of
17 the sort, Delegate Gilchrist. It seems to me you are
18 putting words in my mouth.

19 What I did say was that irrespective of what
20 happens to the Majority Report, the Baltimore City
21 delegation as such would not, of necessity, need to

1 vote either for or against this amendment. There is a
2 separation of the issue, the opposite of what you say.

3 DELEGATE CLARK: Delegate Beatrice Miller.

4 DELEGATE BEATRICE MILLER: Mr. Chairman,
5 I merely want clarification.

6 At this point I am thoroughly confused. I
7 thought we were speaking to Amendment F. Is that correct?

8 DELEGATE CLARK: That is correct.

9 DELEGATE BEATRICE MILLER: I thought that
10 Amendment F, and please correct me if I am in error,
11 that Amendment F would change the word before "State"
12 by adding the words "and counties", thus permitting
13 the counties to vote every four years, starting with
14 1970, and that in the next paragraph we strike the word
15 "county" and add the words "Baltimore City", thus
16 permitting the City to vote in 1971. Is this correct?

17 DELEGATE CLARK: You are correct, but the
18 question has been divided and will be presented in two
19 parts.

20 The Chair recognizes Delegate Johnson to speak
21 for the amendment.

1 DELEGATE JOHNSON: Mr. Chairman, no, I
2 would like to appeal the ruling of the Chair with
3 respect to dividing this question. I do not believe
4 that the question is divisible, and I would like the
5 Chair to reconsider its ruling. I would be glad to give
6 my reasons.

7 DELEGATE CLARK: Well, our parliamentarians
8 advise me that even if the division wasn't called for,
9 the proper way to vote on this amendment would be in two
10 parts. It deals with two sections, and they are
11 separable.

12 DELEGATE JOHNSON: I would like to appeal
13 the ruling of the Chair and perhaps call to the
14 parliamentarian's attention -- I may not be entirely
15 correct -- that it seems to me if we do divide the
16 question --

17 DELEGATE CLARK: If the first part failed,
18 the other part would obviously be dropped, I assume.

19 DELEGATE JOHNSON: What would happen if the
20 first part was adopted. If the first part was adopted,
21 it would seem to me the second part would also provide

1 for county elections in 1971, whereas the first part
2 would have provided for county elections in 1970. I
3 don't believe that this particular amendment -- that is,
4 the amendment before us, Amendment No. 14 -- is in fact
5 divisible.

6 DELEGATE CLARK: Even if there is an incon-
7 sistency -- which there is -- in the proper way, and
8 the Chair has so ruled, it is divisible. If you want
9 to appeal the ruling, you have that right.

10 DELEGATE JOHNSON: At the proper time, when
11 the question is presented to the body, I will appeal
12 the ruling of the chair.

13 DELEGATE CLARK: All right.

14 Anyone wishing to speak for the Amendment now?
15 Delegate Gallagher.

16 DELEGATE GALLAGHER: Mr. Chairman, ladies
17 and gentlemen of the Committee, we are not trying to be
18 separatists about this, but I would like to state
19 what I believe to be the position of the Baltimore City
20 delegates and make a suggestion to them.

21 Number one, the City does not want its election

1 to take place at the same time when the state election
2 is taking place.

3 Number two, Baltimore City does not want to
4 change its present election cycle, nor in 1971 and
5 each four years thereafter.

6 Number three, most of the delegates from
7 Baltimore City are ill-disposed to force the counties
8 to follow the will of the City of Baltimore when Baltimore
9 City itself is asking for an exception.

10 I have this proposal to make to my fellow
11 delegates from Baltimore City.

12 On this impending vote, withhold your vote.
13 Watch the board with respect to what the counties appear
14 to want, and if discernible go along with the majority.
15 I think that is about the fairest way to approach it.

16 DELEGATE CLARK: The Chair is looking for
17 someone who wants to speak for the amendment. Is there
18 such a person?

19 The Chair recognizes Delegate Scanlan.

20 DELEGATE SCANLAN: I would like to speak for
21 it, because the best solution we have on the board

1 would be a better solution.

2 I suggest in this case the advice of the
3 Parliamentarian to the Chair is not as reliable as it has
4 been in the past.

5 This is obviously one substantive issue.
6 Delegate Gallagher's remarks make that perfectly clear.

7 Baltimore City does not want to impose its
8 will on us, nor do we want to be less an accommodation
9 to Baltimore City. The situations are inextricably related
10 in this amendment, and it should be voted in its entirety,
11 it is not divisible, and hopefully the amendment will
12 pass.

13 I think there is a better solution, but I
14 think we ought to get on with it, and therefore to
15 set the matter in focus I appeal the previous ruling
16 of the Chair saying that this question is divisible
17 and ask that that appeal be put to the Committee of the
18 Whole.

19 DELEGATE CLARK: Delegate Scanlan has appealed
20 the ruling of the Chair and it has been seconded.

21 DELEGATE DUKES: Since he made a speech

1 first, will you let me make one?

2 DELEGATE CLARK: The Chair recognizes Delegate
3 Dukes.

4 DELEGATE DUKES: Since I made the motion to
5 divide in the first place, I think since Mr. Gallagher
6 has made a speech and Mr. Scanlan has made one, maybe
7 we all everybody ought to make one.

8 I made the motion to divide for a very simple
9 reason. We are being forced into deciding yes or no,
10 the county must make the election in a certain way.
11 Given the choice at this time I, for one, would favor
12 to retain the state and county election together in
13 Prince Georges County.

14 I think the time is going to come when it
15 would be much better for us to be able to divide our
16 elections, so if I must vote today on whether we are
17 going to forever enchain Prince Georges County'e elections
18 separate or together I would have to vote to have them
19 separate. I wouldn't like to do that.

20 On the other hand, since the amendment has
21 been made to force the counties to hold their local and

1 state elections together, the only way I know to do is
2 put you in the position Mr. Boyce said you are in, and
3 that is if you are in favor of this amendment I am going
4 to vote against the City of Baltimore and hope everybody
5 from Prince Georges will do the same.

6 DELEGATE CLARK: Delegate Macdonald.

7 DELEGATE MACDONALD: Mr. Chairman, I would
8 request Mr. Scanlan to withdraw his motion for this
9 reason. If he will withdraw his motion, I will move that
10 the amendment be amended, and I would request the sponsor
11 of Amendment 14 to agree to this so as to add after
12 the words "and county", which are on line 3 of Amendment
13 14, the words "except Baltimore City". Then we will
14 have a clear-cut issue and a fair and honest issue before
15 the House.

16 To repeat, I would request Mr. Scanlan to please
17 withdraw his motion to appeal the ruling of the Chair.
18 I would not like to overrule our honorable Chairman from
19 Garrett County, and if he will withdraw it, then after
20 that I will ask the sponsor of Amendment 14 if he will
21 agree to Amendment 14, namely, to add the words "excent

1 Baltimore City" after the words "and county".

2 DELEGATE CLARK: Delegate Scanlan.

3 DELEGATE SCANLAN: If the pending amendment
4 was phrased the way Delegate Macdonald has put it, it
5 truly would be a divisible question and you would have
6 at first bite the whole substantive issue before you.
7 I would be happy to withdraw my request for appeal of the
8 previous ruling.

9 However, Delegate Macdonald made clear that his
10 amendment is consistent upon acceptance by Mr. Byrnes,
11 and my withdrawal in turn is contingent on Mr. Byrnes'
12 withdrawal of his acceptance.

13 DELEGATE CLARK: The Chair recognizes Delegate
14 Hanson.

15 DELEGATE HANSON: Mr. Chairman, a point of
16 inquiry. I should like to ask the Chair if it will be
17 in order for Delegate Raley's proposed amendment to leave
18 the matter to the General Assembly to be offered as a
19 substitute for the amendment now on the floor which,
20 if in order, I believe might extricate us from both the
21 problem of appealing the ruling of the Chair and the

1 system of circular concurrences in which we now seem to
2 be placed.

3 DELEGATE CLARK: If this would be agreeable
4 to sponsors of the amendment, Delegate Byrnes, and if
5 Delegate Scanlan would withdraw his move to appeal the
6 ruling of the Chair, I think it might possibly be done.

7 Delegate Byrnes.

8 DELEGATE BYRNES: Mr. Chairman, I would like
9 to start the cycle by concurring, but I would like to
10 also point out that I think we can make a decision on
11 this question and still have open to us the option
12 suggested by Delegates Hanson, Raley, et al.

13 Our Committee discussed this question of
14 local option, and I think it is the judgment of the
15 Committee to oppose it. There is great debate that
16 could ensue on that one question. It is not as simple
17 as it sounds to allow local option, but I think it has
18 merit if we fail on this motion.

19 Otherwise, I would like to have a decision
20 on it as amended by Delegate Macdonald.

21 DELEGATE CLARK: Delegate Scanlan.

1 DELEGATE SCANLAN: Since the sponsor has indi-
2 cated he will accept Mr. Macdonald's amendment to his
3 amendment, I will withdraw my appeal to the ruling of
4 the Chair, though I do think the situation can be tied
5 up very quickly if we would listen to Mr. Hanson's
6 suggestion and take up the Raley amendment at this time.

7 DELEGATE CLARK: Delegate Marion.

8 DELEGATE MARION: Mr. Chairman, a parliamentary
9 inquiry.

10 If the amendment as now before us, Amendment
11 14, in any of its parts or as amended as suggested by
12 Delegate Macdonald, or perhaps in any other way, should
13 be adopted by this Convention, would the Raley amendment
14 as he outlined it a few moments ago be in order, or would
15 we have in effect foreclosed that question?

16 DELEGATE CLARK: I think the Raley amendment
17 would be in order.

18 The Chair hasn't seen the amendment, so it is
19 hard to say for sure. It hasn't reached here yet.

20 Delegate Hanson.

21 DELEGATE HANSON: Mr. Chairman, based upon

1 the indication of the Chair to my parliamentary inquiry
2 a few moments ago, as soon as the amendment is printed --
3 and I understand it is being printed at the present time --
4 Delegates Raley, Scanlan and myself wish to offer it as a
5 substitute for the pending question.

6 DELEGATE CLARK: Delegate Byrnes, do you
7 accept Delegate Macdonald's suggested amendment? I
8 understood that you did.

9 DELEGATE BYRNES: I do, sir.

10 DELEGATE CLARK: I think it is a necessary
11 amendment, actually, and if there is unanimous approval,
12 that change can be made.

13 Delegate Schloeder.

14 DELEGATE SCHLOEDER: Mr. Chairman, I just
15 want to make it clear that as has already been hinted
16 the Raley amendment will not be acceptable to the
17 Committee, and I don't think that it goes to the substance
18 of the issue.

19 I think that it is basically an attempt to
20 come to some sort of compromise, but a compromise not
21 based upon substantive issues.

1 We would not be in a position to support that
2 amendment.

3 DELEGATE CLARK: The Chair will announce
4 that the first part of Amendment No. 14 has been
5 modified as has been agreed to, and that adds "except
6 in Baltimore City", as I understand it.

7 Is that right, Delegate Macdonald?

8 DELEGATE MACDONALD: Yes, Mr. Chairman.

9 As I understand it, Mr. Chairman, on line
10 3 of Amendment 14 after the word "county" and before the
11 quotation marks we would add the words "except Baltimore
12 City".

13 DELEGATE CLARK: This has been agreed to
14 and has been accepted.

15 This is the way the amendment reads as
16 modified:

17 "The General Election shall be held on
18 Tuesday next after the first Monday in November, 1970,
19 and every fourth year thereafter, at which time state
20 and county officials except in Baltimore City shall
21 be elected."

1 Isn't that right?

2 DELEGATE MACDONALD: Yes, Mr. Chairman, and
3 I think your style improved it a little bit.

4 DELEGATE CLARK: Delegate Raley's amendment
5 has reached here, and the Chair rules that would be in
6 order after the vote on this amendment.

7 Delegate Clagett.

8 DELEGATE CLAGETT: I would like to speak in
9 opposition to the first section of the amendment as
10 amended, and that is along the line of opposing the
11 separation of Baltimore City and its elections from
12 those being held in the counties.

13 Contrary to my good friend Delegate Dukes
14 and the persuasiveness of anything he has to say whenever
15 he has an opportunity to say it, I do feel that the
16 population growth in Prince Georges County is rapidly
17 approximating that of Baltimore City. We are now 600,000,
18 Baltimore City is 900,000. By another ten years we will
19 probably be 900,000 and no one can guess what the
20 population of Baltimore City will be at that time.

21 However, our problems will be one and the

1 same. The problem that has been mentioned here by
2 Delegate Boyce of the practicalities of combining the
3 state and county elections is such that there just is
4 not enough room on the machine to put all the names.

5 We had that very same problem at our last
6 election in Prince Georges County where there were so
7 many names on the ballot that you simply did not know
8 who the individual was behind the name, and that will
9 continue unless we adopt this means of separating the
10 two.

11 Now, there is one other thought that I would
12 like to pass on.

13 We are sincerely endeavoring to bring a
14 working relationship into existence between Baltimore
15 City and the counties. It is harmful to the best
16 interests of both units to have continued this
17 separation of feeling between county and city. A
18 precedent was set when Mayor D'Alesandro came to
19 Montgomery County a few days ago for the sole purpose
20 of explaining to the people of that county the problems
21 of Baltimore City and why it was to their best interests

1 that they contribute toward the solution of those problems
2 in Baltimore City.

3 It is that kind of effort that I think would
4 be furthered if the City elections and county elections
5 were held on the same day.

6 The Baltimore Sun is still read throughout
7 the counties even though it has been trespassed upon
8 by the Washington Post and Star and a few other leading
9 newspapers. Nevertheless, when the election rolls
10 around in Baltimore City, if that is combined with that
11 of the county and the issues are given publicity, the
12 paper will be read by both the county and the city,
13 because there is an identification of relationship between
14 the two, on those issues.

15 I ask that you oppose this section of the
16 amendment and vote in favor of keeping the City
17 elections and County elections together.

18 (At this point, the Honorable H. Vernon Eney,
19 Chairman of the Committee of the Whole, resumed the
20 Chair.)

21 THE CHAIRMAN: There is left only three

1 minutes for debate in this period. The Chair suggests
2 that each of ybu keep your remarks down to the minimum,
3 and in no event more than one minute.

4 Delegate Churchill Murray.

5 DELEGATE CHURCHILL MURRAY: I rise to support
6 and second the statement --

7 THE CHAIRMAN: You are out of order at this
8 time. I will recognize you in a moment.

9 Persons entitled to the floor will speak in
10 favor of the amendment.

11 DELEGATE BOROM: I would like to address an
12 inquiry to the Chair.

13 THE CHAIRMAN: State your inquiry.

14 DELEGATE BOROM: Some of us are unfamiliar
15 with the Raley amendment which has been proposed.
16 I am wondering if it might be possible for us to have
17 that in front of us so we can give it consideration in
18 our voting.

19 THE CHAIRMAN: The amendment is not back from
20 the printers yet. The Chair is perfectly willing
21 to have the Reading Clerk read the amendment so that

1 you will be familiar with it.

2 As previously indicated, the amendment will be
3 in order after the vote on the current amendment.

4 The Clerk will read the so-called Raley
5 Amendment.

6 MR. QUILLEN: To Committee Recommendation
7 No. S&E-2 By Delegates Raley, Hanson, Scanlan.

8 On page 3 Section 7 General Elections
9 strike out all of lines 17 through 27, inclusive, and
10 insert in lieu thereof the following:

11 "Monday in November for the election of
12 members of the Congress and, when required, for the
13 election of President and Vice President of the United
14 States or electors for those offices. The general
15 election of State and county officials shall be held
16 in such years and at such times as the General Assembly
17 may provide by law."

18 THE CHAIRMAN: Does any Delegate desire
19 to speak in favor of the amendment?

20 Delegate Scanlan.

21 DELEGATE SCANLAN: I speak in favor of the

1 amendment. It is at best here a Hobson's Choice. The
2 Majority would foist upon the counties and city of Balti-
3 more the obligation to hold their elections in the off-
4 years.

5 The Byrnes Amendment at least would protect
6 the counties and also protect the City of Baltimore
7 from this rule. Unfortunately, it suffers from the
8 vice of inflexibility which I think would be cured if we
9 adopt the Raley Amendment. Therefore, I am going to
10 vote for the Byrnes Amendment, and whether it passes or
11 fails ultimately the Raley Amendment will prevail.

12 THE CHAIRMAN: Does any other Delegate desire
13 to speak in opposition to the amendment?

14 Delegate Schloeder, you have one minute.

15 DELEGATE SCHLOEDER: Mr. Chairman, I would
16 urge the Delegates to vote against this amendment. I
17 think that it doesn't really do anything, it just locks
18 into the issue the situation of having the state and county
19 elections at the same time. All the argument made about
20 divisibility, responsibility, and separation of issues
21 would be destroyed if this amendment were to be passed.

1 Also, the Majority Committee Report would
2 allow Baltimore City to remain just the way it is now and
3 we would urge that you would vote against this amendment
4 which would go against all these issues of visibility,
5 credibility, responsibility, separation of issues, and
6 then would continue to support the Majority position.

7 THE CHAIRMAN: The Chair recognizes Delegate
8 Gallagher for one minute.

9 DELEGATE GALLAGHER: Mr. Chairman, a point
10 of parliamentary inquiry.

11 If the City delegates decide to abstain on
12 this vote, it will not in any way affect the legality
13 or sufficiency of the rest of the Committee, will it,
14 Mr. Chairman?

15 THE CHAIRMAN: The Committee as a whole operates
16 on the rule that so long as there is a quorum present,
17 action is taken by the majority of those present and
18 voting. Therefore, if the quorum is present, if the
19 Delegates abstain, it would not have any direct effect
20 on the action on the amendment.

21 Does any Delegate desire to speak in favor

1 for one minute?

2 Delegate Macdonald.

3 DELEGATE MACDONALD: I would like to support
4 the amendment, Mr. Chairman.

5 THE CHAIRMAN: You may speak.

6 DELEGATE MACDONALD: I think the Majority
7 report tries to obtain a laudable objective, namely to
8 get the voters' attention on local elections, but I
9 doubt that you can legislate enthusiasm and interest.

10 Nevertheless, I see in the Majority Report
11 practical difficulties. It does not lend itself to
12 the process of election of judges who serve locally --
13 in other words, judges who serve on the District Court
14 and Supreme Court level. They are county officials
15 and do not fit into the framework which the Majority
16 here proposes.

17 It would also prevent any county which
18 wants to have its governing body elected on a standard
19 term basis from doing so.

20 It has too many practical difficulties,
21 it is too rigid, and I am going to support the amendment.

1 THE CHAIRMAN: The Chair will recognize a
2 Delegate desiring to speak for one minute in opposition
3 to the amendment.

4 Delegate Boyce.

5 DELEGATE BOYCE: Personal privilege, not
6 opposition.

7 THE CHAIRMAN: State your privilege.

8 DELEGATE BOYCE: I would like the privilege
9 because previously I said I would vote against it. I
10 would go along with Delegate Gallagher and say I am
11 going to abstain, and then afterward when we see what
12 the counties wish to do we can reconsider and then
13 put Baltimore's vote in the place where it ought to be.

14 THE CHAIRMAN: Delegate Raley.

15 DELEGATE RALEY: I do want to add one
16 sponsor's name to the amendment just submitted by
17 Delegates Raley, Hanson and Scanlan. We would like
18 to add the name of E. J. Clarke.

19 THE CHAIRMAN: We can add that when it is
20 submitted.

21 Delegate Sybert.

1 DELEGATE SYBERT: Mr. Chairman, as I under-
2 stand it, the wording of the proposed amendment will
3 change the section to read as follows, in line 22 of
4 Section 7: "which time State and county officials
5 except in Baltimore City", is that correct?

6 THE CHAIRMAN: The Chair is advised by the
7 Clerk that the words "except Baltimore City" were added
8 after the word "county". It makes a very awkward
9 phrase.

10 The way line 22 would read as modified
11 if the amendment is adopted is "State and county except
12 Baltimore City officials shall be elected".

13 DELEGATE SYBERT: Mr. Chairman, I would
14 suggest that if the sponsor of the amendment would
15 agree that the wording be changed, thus, so as to be
16 intelligible.

17 I take it that the election of state
18 officials in Baltimore City is not to be deferred for
19 a year after state officials are elected and counties,
20 so I assume that the sponsor means this: "State
21 officials and county officials except in Baltimore

1 City shall be elected."

2 THE CHAIRMAN: Delegate Byrnes, did you hear
3 the suggestion?

4 DELEGATE BYRNES: Yes, I did.

5 THE CHAIRMAN: Would you accept it?

6 DELEGATE BYRNES: I would.

7 THE CHAIRMAN: Is there any objection?

8 Delegate Henderson.

9 DELEGATE HENDERSON: The question was raised
10 about the judges. I think they should be the subject of
11 another exception, and I had prepared an amendment.
12 I don't want to confuse the issue here, but I want
13 to make sure that that amendment will be in order,
14 because judges, under the Judicial Branch article, are
15 elected at two-year and eight-year intervals, and I don't
16 want them to be frozen in here by use of the words
17 "public officials".

18 THE CHAIRMAN: The Chair hasn't seen the
19 amendment, but as it understands you, it would be in
20 order as a subsequent amendment.

21 Delegate Byrnes, as the Chair understands

1 your modification, it would be after the word "officials",
2 rather than after the word "State", add the words
3 "and county officials other than Baltimore City
4 officials".

5 Is that your modification?

6 MR. BYRNES: Yes, it is, sir.

7 THE CHAIRMAN: Delegate Henderson, the
8 Chair's ruling was based, in response to your question,
9 in part on the assumption that judges, under this
10 Constitution, would not be Baltimore City officials
11 within the meaning of this phrase. It may or may
12 not be necessary for you to take your amendment.
13 If you decide to do so, it will be considered in order.

14 In other words, it will not be considered
15 as contradictory of the phrase "Baltimore City
16 officials".

17 DELEGATE HENDERSON: But it would be state
18 officials, that is my point.

19 THE CHAIRMAN: Oh, I see.

20 DELEGATE HENDERSON: Unless it could be
21 styled to make an exception in that case --

1 THE CHAIRMAN: I am sorry, I missed your
2 point. The further amendment would be in order.

3 Let me state the modification, please.

4 The modification which the sponsor desires
5 to make is as follows: On lines 1, 2 and 3 of the
6 amendment, on page 3, Section 7, General Elections,
7 in line 22 after the word "officials" add the words
8 "and county officials other than Baltimore City
9 officials".

10 The Chair understands there is no objection
11 to the modification.

12 For what purpose does Delegate Schloeder
13 rise?

14 DELEGATE SCHLOEDER: I would like to clarify
15 for Judge Henderson that the Committee in its colloquy
16 with Chairman Mudd of the Judicial Branch Committee
17 thought we had made clear we would have no objection
18 to any kind of amendment that would calrify the
19 judicial election procedure, and I just wouldn't want
20 anybody here to vote for this amendment on the mistaken
21 idea that it would benefit or make it more easy for

1 judicial elections to be held under the present Judiciary
2 Branch Article.

3 THE CHAIRMAN: Are you ready for the question?

4 For what purpose does Delegate Byrnes rise?

5 DELEGATE BYRNES: I would like to clarify,
6 also, that there are three amendments which will follow --
7 one deals with staggered terms, one with judges, and the
8 other is possible local options.

9 It is my understanding that no matter how
10 we vote on this, all three of those will be available
11 to us.

12 Delegate Borom has suggested we have a
13 completely undebated amendment before us which would
14 possibly influence the vote. I would suggest it should
15 not influence you no matter which way you vote.

16 THE CHAIRMAN: Very well, the question.
17 The Clerk will ring the quorum bell.

18 Delegate Dukes.

19 DELEGATE DUKES: May I direct inquiry to
20 Delegate Byrnes?

21 THE CHAIRMAN: Delegate Byrnes doesn't have

1 the floor now.

2 The debate is ended.

3 DELEGATE DUKES: I would ask that you
4 accept a further modification. After the words "except
5 Baltimore City", could we add "and Prince Georges
6 County, these two being entitled to do as they please".

7 THE CHAIRMAN: That is not the words in
8 the present amendment, Delegate Dukes.

9 DELEGATE DUKES: I will yield to the Chair.

10 THE CHAIRMAN: Are you ready for the
11 question? The questions rises on the adontion of the
12 first portion of Amendment 14 as modified, Amendment 14
13 having been divided.

14 You are therefore voting now only on the
15 first portion of Amendment 14 as modified.

16 The effect of the amendment if adopted would
17 be to rewrite line 22 on page 3 so that it would read
18 "State officials and county officials other than Baltimore
19 City officials shall be elected."

20 A vote Aye is a vote in favor of the amendment,
21 a vote No is a vote against.

1 Cast your votes.

2 Has every Delegate voted?

3 Does any Delegate desire to change his vote?

4 The Clerk will record the vote.

5 There being 57 votes in the affirmative, 41
6 in the negative, the motion is carried and the amendment
7 adopted.

8 On the second portion of Amendment 14,
9 the portion printed in lines 5 to 7 of the amendment.
10 A vote Aye is a vote in favor of the amendment, a vote
11 No is a vote against.

12 Cast your votes.

13 Has every Delegate voted? Does any Delegate
14 desire to change his vote?

15 The Clerk will record the vote.

16 There being 83 votes in the affirmative
17 and 31 in the negative, the motion is carried, the
18 second portion of the amendment is adopted, and accordingly
19 Amendment No. 14 is adopted.

20 The Chair recognizes Delegate Raley.

21 Delegate Raley, do you desire to offer your

1 amendment?

2 DELEGATE RALEY: Mr. Chairman, I do desire to
3 offer the amendment.

4 THE CHAIRMAN: Pages will distribute Amendment
5 AX. As the amendment is distributed to you, will you
6 each please add as a sponsor the name of Delegate E. J.
7 Clarke.

8 Delegate Gallagher, have you seen a copy of
9 the amendment now being distributed?

10 DELEGATE GALLAGHER: No, sir, I have not seen
11 it as yet.

12 THE CHAIRMAN: Will you please, as soon as
13 you see it, advise the Chair whether you would intend
14 to offer your Amendment AU at any point? This will be
15 Amendment No. 15. The Clerk will read the amendment.

16 MR. QUILLEN: Amendment No. 15 to Committee
17 Recommendation No. S&E-2, by Delegates Raley, Hanson,
18 Scanlan and E. J. Clarke.

19 On page 3 Section 7 General Elections strike
20 out all of lines 17 through 27, inclusive, and insert in
21 lieu thereof the following:

1 "Monday in November for the election of
2 members of the Congress and, when required, for the
3 election of President and Vice President of the United
4 States or electors for those offices. The general
5 election of State and county officials shall be held
6 in such years and at such times as the General Assembly
7 may provide by law."

8 THE CHAIRMAN: The amendment having been
9 seconded by Delegates Hanson, Scanlan and E. J. Clarke,
10 the Chair recognizes Delegate Raley to speak to the
11 amendment.

12 Delegate Raley.

13 DELEGATE RALEY: Mr. Chairman, members of
14 the Committee, I think what this amendment does is allow
15 some flexibility that will allow, if in the future we
16 want to change the state or local elections, we can do it to
17 put them into what years the General Assembly may provide
18 by law.

19 I think it is much better than the mandate
20 they have in the other amendment that they shall be held
21 in a certain year. I think this has a great deal of

1 worth in that we do have that flexibility.

2 It gets away further from some of these
3 problems that we have been talking about in all these
4 amendments and word changes, so for that reason I would
5 hope that the Committee will accept this amendment.

6 THE CHAIRMAN: Are there any questions of the
7 sponsor of the amendment?

8 Delegate Cardin.

9 DELEGATE CARDIN: Delegate Raley, would this
10 permit the General Assembly to establish six or eight-
11 year terms for state officials?

12 THE CHAIRMAN: Delegate Raley.

13 DELEGATE RALEY: What do you mean six and
14 eight-year terms?

15 THE CHAIRMAN: Delegate Cardin.

16 DELEGATE CARDIN: Could it possibly establish
17 the fact that the General Assembly may provide by law
18 that all Representatives, Delegates or Senators shall
19 a six-year term of office?

20 THE CHAIRMAN: Delegate Raley.

21 DELEGATE RALEY: No, I don't think so,

1 because those terms are set forth in other sections of
2 the Constitution.

3 THE CHAIRMAN: Delegate Cardin.

4 DELEGATE CARDIN: Could you please point out
5 the other sections of the Constitution -- are there
6 any sections in the separate election that would state
7 what it has to be?

8 THE CHAIRMAN: Delegate Raley.

9 DELEGATE RALEY: There is in the Legislative
10 section where it says they will be four-year terms.

11 THE CHAIRMAN: Delegate Cardin.

12 DELEGATE CARDIN: Do you feel there might be
13 any conflict in the fact that what your amendment does
14 is remove the four-year election law as we have had it?

15 THE CHAIRMAN: Delegate Raley.

16 DELEGATE RALEY: No, I don't see any conflict.

17 THE CHAIRMAN: Delegate Adkins?

18 DELEGATE ADKINS: I should like to ask the
19 sponsor of the amendment if it is quite clear in his
20 opinion that under the last sentence it would be possible
21 for the General Assembly to provide different times for

1 elections in different sections of the state. It seems
2 to me this could be read in the conjunctive, meaning
3 they would have to establish a consistent rule. I
4 would like to be assured that that is not the case.

5 THE CHAIRMAN: Delegate Raley.

6 DELEGATE RALEY: If I understand the question,
7 Delegate Adkins -- really I was listening to somebody
8 over here and didn't hear you.

9 THE CHAIRMAN: State your question again,
10 Delegate Adkins.

11 DELEGATE ADKINS: My question specifically
12 is, is it your judgment that under the last sentence
13 of this provision it would be possible to establish
14 different times for elections for local elections in
15 different sections of the state?

16 THE CHAIRMAN: Delegate Raley.

17 DELEGATE RALEY: Delegate Adkins, yes, I
18 think that is possible.

19 THE CHAIRMAN: Delegate Adkins.

20 DELEGATE ADKINS: I wasnt to make quite clear
21 this is the intent. It is then the intention of the

1 sponsor of the amendment that a local election in
2 one section of the state could be held simultaneously
3 with the statewide election and at a different time in
4 some other section of the state.

5 In other words, there is no requirement here
6 or under the local government Article which would require
7 uniformity in this field.

8 THE CHAIRMAN: Delegate Raley.

9 DELEGATE RALEY: Yes, I would say that that
10 is correct.

11 THE CHAIRMAN: Delegate Boileau.

12 DELEGATE BOILEAU: I note in the legislative
13 Article there was in fact a definitive statement as to the
14 term of legislators, four years. In the Executive
15 Article, in Section 405, there is a statement "A term
16 of four years, and until someone is qualified to succeed
17 the office of Governor."

18 Doesn't this mean the General Assembly
19 could in fact perpetuate one individual in the office of
20 Governor by not providing for an election in that year?

21 THE CHAIRMAN: Delegate Raley.

1 DELEGATE RALEY: I doubt that could happen.

2 THE CHAIRMAN: Delegate Weidemeyer.

3 DELEGATE WEIDEMEYER: I was just wondering if
4 this would in any way interfere with the provisions of
5 the county charter or charters of municipalities which
6 provide for elections on days other than the first
7 Tuesday after the first Monday of November.

8 THE CHAIRMAN: Delegate Raley.

9 DELEGATE RALEY: I would say no.

10 THE CHAIRMAN: Delegate Henderson.

11 DELEGATE HENDERSON: Up to this point,
12 there has been no suggestion from any source that we
13 change the four-year cycle of elections for state
14 officials. All the argument has been as to whether
15 the counties should have or cities should have the authority
16 to hold their elections on a different date.

17 Now, is it necessary to go as far as you do
18 in this amendment, because you seem to put it in the
19 power of the General Assembly here to change the state-
20 wide election.

21 THE CHAIRMAN: Delegate Raley.

1 DELEGATE RALEY: Delegate Henderson, I don't
2 think so. It says general elections of state and county
3 officials shall be held in such years at such times as
4 the General Assembly may provide by law. If you want
5 to tighten it up in some way, I certainly would be
6 acceptalbe to that. I see the point you are making.

7 THE CHAIRMAN: Delegate Gallagher and Raley,
8 the Chair would like to make this suggestion.

9 It seems to me that your amendment poses many
10 difficulties, that it needs clarification and modification.

11 Delegate Gallagher has indicated to the
12 Chair that he would intend to offer his Amendment AX --
13 not AX, AU. Was it in the event this amendment fails?

14 DELEGATE GALLAGHER: No, sir, in the event
15 it passes, Mr. Chairman.

16 THE CHAIRMAN: Then the Chair would have to
17 rule that Delegate Gallagher's amendment could be offered
18 only as a substitute for the pending amendment, that it
19 would not be offered if Amendment AX fails.

20 In view of that situation, I suggest to you
21 that we would accomplish more if you would consent

1 that action on your Amendment 15 be laid over, that the
2 Committee of the Whole proceed to consider the earlier
3 amendments and give you an opportunity to confer with
4 the other sponsors and with Delegate Gallagher and submit
5 a proper modification. Are you willing to do that?

6 DELEGATE RALEY: Yes, sir.

7 THE CHAIRMAN: Is there any objection?

8 If not, Amendment 15 will be held over while
9 the Committee of the Whole considers other matters in
10 connection with this article.

11 Delegate Raley, the Chair calls to your
12 attention that you will have to give immediate consider-
13 ation to this matter, because there are only two or
14 three amendments left to be considered in connection
15 with this Article.

16 Delegate Gallagher, can you confer with
17 Delegate Raley about the matter?

18 Amendment No. 15 will be laid aside for further
19 consideration.

20 Delegate Macdonald, in the present state
21 of affairs do you still desire to offer your Amendment AR?

1 DELEGATE MACDONALD: Yes, Mr. Chairman.

2 THE CHAIRMAN: Are there any other amendments
3 to be offered to Section 7 except the amendment laid
4 aside?

5 For what purpose does Delegate Schloeder
6 rise?

7 DELEGATE SCHLOEDER: Mr. Chairman, I rise
8 on a point of personal privilege, and also I am compelled
9 to comment that all this could have been avoided if we had
10 maintained our staunch position behind the Committee.

11 At any rate, I would like the Delegates to
12 welcome to the Chamber Professor Hebsur of India, a
13 scholar of government and lecturer at the University
14 of Bombay, who is visiting the United States and
15 studying at American University. He is seated in the
16 rear balcony.

17 THE CHAIRMAN: We are delighted to have you.
18 (Applause.)

19 THE CHAIRMAN: Delegate Robie.

20 DELEGATE ROBIE: I rise to a point of personal
21 privilege.

1 THE CHAIRMAN: State the privilege.

2 DELEGATE ROBIE: I would like the Committee
3 of the Whole to welcome with me Mr. Robert McKinley
4 and Mr. Keith Payne. Both gentlemen are associate
5 secretaries of the Central Atlantic Area YMCA. They
6 are sitting directly behind the podium.

7 They came here this morning from Princeton,
8 New Jersey, to observe our Convention in progress,
9 because they are the advisors to the Central Atlantic
10 Area Modern Youth in Government program sponsored by the
11 YMCA.

12 The program was started by the YMCA in
13 1936 and now includes 39 of the 50 States in our
14 country.

15 However, I would like to make one interesting
16 note here at this time. For the first time in the
17 history of our country in the Modern Youth in Government
18 program, on April 24, 25, 26 and 27, here in the
19 town of Annapolis and in this same Chamber will be the
20 first Modern Youth Constitutional Convention in the
21 United States.

1 THE CHAIRMAN: We are delighted to have you
2 with us. (Applause.)

3 Delegate Fornos.

4 DELEGATE FORNOS: A point of personal privilege.

5 THE CHAIRMAN: State the privilege.

6 DELEGATE FORNOS: I would like the Delegates
7 to welcome to this Chamber the vice president of the
8 Annapolis Chapter of the American Association of University
9 Women, Mrs. Harvey Budd.

10 THE CHAIRMAN: We are delighted to have you
11 with us. (Applause.)

12 Delegate Henderson, would you joint Delegates
13 Raley and Gallagher in conference and see if perhaps
14 your amendment could be combined with theirs?

15 DELEGATE HENDERSON: I would be glad to.

16 THE CHAIRMAN: Pages will please distribute
17 Amendment AR.

18 This will be Amendment No. 16. The Clerk will
19 read the amendment.

20 MR. QUILLEN: Amendment No. 16 to Committee
21 Recommendation No. S&E-2 by Delegates Macdonald, Maurer,

1 E. J. Clarke, Morgan, Beachley.

2 On page 3 Section 7 General Elections line 22,
3 after the word "elected" insert the following: ", except
4 that officials serving on a staggered term basis may be
5 elected every two years."

6 THE CHAIRMAN: The amendment has been offered
7 by Delegate Macdonald, seconded by Delegates Maurer,
8 E. J. Clarke, Morgan and Beachley.

9 The Chair recognizes Delegate Macdonald to speak
10 to the amendment.

11 DELEGATE MACDONALD: May first inquire
12 whether Delegate Henderson or any other Delegate has an
13 amendment which would allow judges to be elected in
14 any even-numbered year?

15 THE CHAIRMAN: He does, and that is the
16 amendment the Chair just suggested he consider jointly
17 with Delegates Raley and Gallagher.

18 DELEGATE MACDONALD: Then I will speak
19 simply to this amendment, Mr. Chairman.

20 We have adopted a local government article
21 which will allow each county in the state to adopt its

1 own form of local government, its own structure of
2 government.

3 Some counties may wish to have their county
4 council, their elected governing body, elected on a staggered
5 term basis. This amendment would allow that.

6 Without this amendment, I don't believe
7 that any county government could have its officials
8 elected on a staggered term basis unless they wanted to serve
9 for eight years, and I don't think that we should imprison
10 any elected official for that term in office.

11 Therefore, I would suggest that you adopt this
12 amendment.

13 THE CHAIRMAN: Are there any questions of the
14 sponsor of the amendment?

15 Delegate Weidemeyer.

16 DELEGATE WEIDEMEYER: I would ask Delegate
17 Macdonald if he will accept the insertion of a few words
18 in his amendment prior to "except that officials serving
19 on a staggered basis". The paragraph would read, with
20 his amendment:

21 "A general election shall be held on Tuesday

1 next after the first Monday of November, 1970, and every
2 fourth year thereafter at which time state officials shall
3 be elected."

4 THE CHAIRMAN: No, there is another phrase
5 in there -- "state officials and county officials except
6 Baltimore City officials" was added by the amendment.

7 DELEGATE WEIDEMEYER: After the word "elected",
8 add "including the approval or rejection of judges".

9 THE CHAIRMAN: Delegate Macdonald.

10 DELEGATE MACDONALD: Mr. Chairman, I
11 understand that Judge Henderson, or some other Delegate
12 who has served on the Judicial Branch Committee, is going
13 to offer an appropriate amendment, so for that reason
14 I do not believe it is necessary or, indeed, advisable
15 to tangle with this one, so I would not accept that word-
16 ing.

17 THE CHAIRMAN: Are there any other additions?

18 Delegate Weidemeyer.

19 DELEGATE WEIDEMEYER: Speaking about
20 election of governors, technically they are not elected
21 any more, they are approved or rejected. Therefore, I

1 thought we could include it all in one amendment.

2 THE CHAIRMAN: He has rejected your suggestion,
3 Delegate Weidemeyer.

4 Are there any other questions?

5 Delegate Carson.

6 DELEGATE CARSON: I would like to ask a
7 question of Delegate Macdonald.

8 When you say "except that officials serving
9 on a staggered term basis", do I take that to mean
10 county officials?

11 THE CHAIRMAN: Delegate Macdonald.

12 DELEGATE MACDONALD: It is certainly directed
13 at county officials. I don't know of any other officials
14 who are or may be elected on a staggered term basis.

15 THE CHAIRMAN: Delegate Carson.

16 DELEGATE CARSON: Would you accept an amend-
17 ment to add the word "county" after the word "officials"?

18 THE CHAIRMAN: Delegate Macdonald.

19 DELEGATE MACDONALD: No, I don't believe
20 that is necessary.

21 THE CHAIRMAN: Very well, Delegate Chabot.

1 DELEGATE CHABOT: Do you intend that this
2 exception apply to the counties but not to Baltimore
3 City?

4 THE CHAIRMAN: Delegate Macdonald.

5 DELEGATE MACDONALD: That is correct. If
6 Baltimore City wants to stagger their officials, I think
7 that is up to Baltimore City to offer such amendment.

8 THE CHAIRMAN: Delegate Chabot.

9 DELEGATE CHABOT: Do you intend that this
10 apply only to the counties and therefore the provisions
11 with regard to the State Legislature, which, as was
12 pointed out before, authorized four-year terms and until
13 the successor is elected that that provision should
14 not be permitted to work with this so as to permit the
15 staggering of terms of the State Legislature?

16 THE CHAIRMAN: Delegate Macdonald.

17 DELEGATE MACDONALD: I don't understand
18 that the words we have adopted so far would permit that.

19 THE CHAIRMAN: Do you have further question,
20 Delegate Chabot?

21 Delegate Gallagher.

1 DELEGATE GALLAGHER: Mr. Chairman, ladies
2 and gentlemen of the Committee, may I suggest to the
3 Chair and to the sponsors of this amendment that this
4 could well be a matter for consideration by the floating
5 committee which is considering elections.

6 At this moment might you consider us having it
7 over the lunch hour?

8 THE CHAIRMAN: Delegate Macdonald, it has
9 been suggested to the Chair that it will not be possible
10 to complete the revision of Amendment 15 prior to
11 the recess for lunch, and Delegate Gallagher has just
12 pointed out the subject matter of your amendment may well
13 be worked into theirs.

14 Would you be willing to have your amendment
15 laid over also for consideration after consideration of
16 a modified Amendment 15 after the lunch hour?

17 DELEGATE MACDONALD: I would be honored to
18 join that illustrious group.

19 THE CHAIRMAN: Is there any objection?

20 There being no objection, Amendment 16 will
21 be laid over.

1 Delegate Henderson, I take it that under these
2 circumstances it will not be necessary to consider
3 separately the amendment which you had referred to
4 earlier.

5 DELEGATE HENDERSON: That is correct.

6 THE CHAIRMAN: Very well.

7 Are there any further amendments to Section 7?
8 The Chair hears none.

9 Are there any amendments to, or does the
10 Committee Chairman desire to make a further presentation
11 with respect to Section 8?

12 Are there any amendments to Section 8?

13 Delegate Cardin.

14 DELEGATE CARDIN: Mr. Chairman, I believe
15 an amendment is being prepared. If you will permit,
16 I would state what the purpose of the amendment is.

17 THE CHAIRMAN: Very well.

18 DELEGATE CARDIN: The purpose of the
19 amendment is to strike out on line 32, Section 8,
20 "or in the case of Primary Elections", then continuing
21 on line 33 "become the nominee for".

1 The reason this amendment was offered was that
2 the Chair suggested yesterday that nowhere in this
3 entire Article does the word "primary" appear, and that
4 it is anticipated the word "elections" used throughout
5 this would be General Elections.

6 Section 6 does provide the General Assembly
7 to regulate and provide for the nomination of candidates,
8 and we thought we would leave it that way in deleting
9 this phrase.

10 THE CHAIRMAN: Is there any objection to
11 consideration of the proposed amendment to Section 8
12 to strike from lines 32 and 33 the language "in the case
13 of Primary Elections" with the understanding the amendment
14 will be printed and on your desk immediately after the
15 noon hour?

16 There is no objection.

17 The Chair recognizes Delegate Cardin for the
18 purpose of moving the amendment.

19 DELEGATE CARDIN: I move the amendment, Mr.
20 Chairman.

21 THE CHAIRMAN: Is there a second?

1 The amendment has been seconded.

2 So there will be no misunderstanding, the
3 amendment is to Section 8 to strike from lines 32 and 33
4 the phrase "in the case of Primary Elections".

5 The Chair recognizes Delegate Cardin.

6 DELEGATE CARDIN: Mr. Chairman, "or in the
7 case of Primary Elections, become the nominee for".

8 THE CHAIRMAN: The whole phrase?

9 DELEGATE CARDIN: The whole phrase.

10 THE CHAIRMAN: The suggestion is to strike
11 from lines 32 and 33 "or in the case of Primary Elections,
12 become the nominee for" -- all of that will be stricken.

13 DELEGATE CARDIN: Until yesterday, I did
14 not realize fully that this was the only area and it could
15 cause some confusion in future reading of the meaning
16 of "election".

17 Nowhere in this Article did we anticipate
18 "election" would be considered, but rather would be a
19 "General Election", and the Primary is considered a
20 nomination of candidates.

21 Since Section 6 provides that the General

1 Assembly shall by public general law provide for the
2 nomination of candidates, we felt it would be best for
3 the understanding of this entire section to remove the
4 one and only reference to Primaries.

5 THE CHAIRMAN: Are there any questions of
6 the sponsor of the amendment?

7 Delegate Bamberger.

8 DELEGATE BAMBERGER: Delegate Cardin, if you
9 would agree with this language in Section 8 it required
10 only a plurality vote to win a primary election, but
11 by removing that language, the General Assembly in
12 providing for Primary Elections would be able to require
13 a majority vote and for run-offs in Primaries, is that
14 correct?

15 THE CHAIRMAN: Delegate Cardin.

16 DELEGATE CARDIN: I don't know, this is the
17 problem that was raised.

18 The question is would it be decided that the
19 nomination, which is the Primary, is a full election
20 would it qualify as an election? If, however, it is
21 only a nomination, not a full election, the General

1 Assembly would handle it that way. It was assumed all
2 pluralities would be handled in the same fashion.

3 THE CHAIRMAN: Delegate Case.

4 DELEGATE CASE: Delegate Cardin, is it my
5 understanding that the purpose of this amendment is to take
6 the governing provision relating to primaries completely
7 out of the Constitution?

8 THE CHAIRMAN: Delegate Cardin.

9 DELEGATE CARDIN: This is the only reference
10 to Primary in the entire Constitution. We do not use the
11 phrase in this section at all, we do not allude to
12 Primary, and actually we have made no other provisions
13 in the reading of this for Primaries.

14 THE CHAIRMAN: Delegate Case.

15 DELEGATE CASE: Let me put the question to
16 you a little differently.

17 Will Section 8 control or govern Primaries
18 if this language is taken out?

19 DELEGATE CARDIN: I don't believe it would.

20 THE CHAIRMAN: Delegate Case.

21 DELEGATE CASE: Is that the rules and

1 procedures relating to Primaries absent the language that
2 you seek to strike here would be entirely governed by
3 the Legislature?

4 THE CHAIRMAN: Delegate Cardin.

5 DELEGATE CARDIN: Yes, it would be.

6 THE CHAIRMAN: Are there any further questions
7 of the sponsor of the amendment?

8 Delegate Storm.

9 DELEGATE STORM: Mr. Chairman, I just wish to
10 observe that Mrs. Cardin stood up to Mr. Case very
11 well, and this can serve as an example to anyone who
12 may be afraid of him.

13 THE CHAIRMAN: Delegate Chabot.

14 DELEGATE CHABOT: Will Delegate Cardin yield
15 for a question?

16 THE CHAIRMAN: You may state the question.

17 MR. CHABOT: I have gotten a bit confused
18 by your responses to Delegate Bamberger in light of
19 your responses to Delegate Case.

20 Would the removal of this clause change the
21 substance so that now the General Assembly would be

1 permitted to provide for run-off Primaries?

2 THE CHAIRMAN: Delegate Cardin.

3 DELEGATE CARDIN: If that is the way I
4 answered, that is not what I intended. It seems that
5 in view of the present Constitution and the present laws
6 governing elections that although Primaries are held
7 according to the same general laws and are controlled
8 by the General Assembly for the purpose of elections
9 they are not considered anything more than nominations,
10 but they are administered with the same rules that
11 govern elections.

12 THE CHAIRMAN: Do you have a further question,
13 Delegate Chabot?

14 DELEGATE CHABOT: Yes, sir.

15 I understand that, but I still want to know if
16 we eliminate this clause will it mean that the General
17 Assembly would have the power to provide for run-off
18 Primaries?

19 THE CHAIRMAN: Delegate Cardin.

20 DELEGATE CARDIN: I would have to say yes,
21 it could.

1 THE CHAIRMAN: Delegate Chabot.

2 DELEGATE CHABOT: Then this is a substantive
3 change as well as a technical change.

4 THE CHAIRMAN: Delegate Cardin.

5 DELEGATE CARDIN: Yes, viewed in that light
6 it would be.

7 THE CHAIRMAN: Are there any further questions
8 of the sponsors of the amendment?

9 If not, the Chair recognizes Delegate Koss
10 to speak in opposition.

11 DELEGATE KOSS: Mr. Chairman and fellow
12 Delegates, I think the colloquy has brought out the
13 primary -- excuse my use of the term -- the basic reason
14 that the Committee inserted this language, and that was
15 that it wanted to make sure that the General Assembly
16 would not have the power in the case of the nomination
17 to provide for a run-off election.

18 While you are aware of the fact I can't
19 claim any legal qualification, it doesn't seem to me that
20 the inclusion of this word or reference to Primaries
21 here in any way affects the other Articles of this

1 Section, and I think, as I said, the substantive effect
2 of this is to permit the General Assembly to provide
3 that nominees have to receive a majority vote, and
4 therefore makes very real the possibility of run-off
5 elections.

6 THE CHAIRMAN: Does any other Delegate desire
7 to speak in favor of the amendment?

8 Delegate Carson.

9 DELEGATE CARSON: To my knowledge, there is
10 nothing in the Constitution today concerning Primaries.
11 If there is, I will be corrected.

12 It seems to me that the addition of Section 8
13 with this language in regard to Primaries is, at best,
14 confusing.

15 The section preceding that has made only one
16 reference to Primaries, and that is in Section 6 it has
17 given the General Assembly the right to establish or
18 provide for the nomination of candidates.

19 It does not state when that nomination would take
20 place, how it would take place, or treat it in any
21 other manner.

1 The Chairman has attempted to make clear that
2 the other sections of this article will not deal with
3 Primaries.

4 Then inexplicably in Section 8 you get some-
5 thing specifically with regard to Primaries, something
6 not in today's Constitution.

7 I suggest that leaving this language in
8 Section 8s at best confusing. To take it out would
9 make it clear, and I have no question that the General
10 Assembly will continue as it has in the past without
11 the Constitutional requirement.

12 I urge you to vote in favor of the amendment.

13 THE CHAIRMAN: Does any other Delegate desire
14 to speak in opposition to the amendment?

15 Delegate Byrnes.

16 DELEGATE BYRNES: Mr. Chairman, I would like
17 to direct a question to the Chairman at the appropriate
18 time.

19 THE CHAIRMAN: Does any Deletage desire to
20 speak in opposition first?

21 Delegate Chabot.

1 DELEGATE CHABOT: Mr. Chairman, this provision
2 was put in here not to confuse, and I submit that this
3 does in fact not confuse. It is not presently in the
4 Constitution.

5 I, as well as many other of the Delegates here,
6 fought and bled during the 1966 Primary Election and
7 recognize the great temptation that many had -- after
8 that Primary Election -- to provide some way in which there
9 could have been a second bite at the apple, other than
10 the one we had in November.

11 It was for that reason, in recognition of that
12 temptation and in recognition on sober second thoughts a
13 year after those Primaries that the Committee concluded
14 that it would be a bad thing if the Legislature did it,
15 that in this particular area essentially the same sort
16 of reasons which governed the rest of Section 8
17 applied, and that since we recognized that the Legislature
18 might be, as a result of the '66 Primary or some similar
19 occasion, tempted to provide for Primary Elections,
20 we felt it was appropriate to put it in the Constitution.

21 THE CHAIRMAN: Does any other Delegate desire

1 to speak in favor?

2 Delegate Clagett.

3 DELETAGE CLAGETT: If Delegate Chabot would
4 yield for a question.

5 THE CHAIRMAN: Will Delegate Chabot yield to
6 a question?

7 DELEGATE CHABOT: Certainly.

8 THE CHAIRMAN: Delegate Clagett.

9 DELEGATE CLAGETT: In reference to line 33
10 of Section 8, by including Primary Elections, do you
11 not define the word "elections" to include Primaries?

12 THE CHAIRMAN: Delegate Chabot.

13 DELEGATE CHABOT: No, sir, we simply are
14 indicating in this provision that although the Legislature
15 has a wide choice in determining how nominations may be
16 made, it may use Primary Elections, it may use conventions
17 or any other procedure it wants.

18 When it chooses to use the method of a public
19 Primary, then this is one condition that the Legislature
20 may not impose upon that method of nomination. That
21 is all we intended, and I submit that is all we accomplish

1 by this language.

2 THE CHAIRMAN: Does any other Delegate desire
3 to speak in favor of the amendment?

4 Delegate Byrnes.

5 DELEGATE BYRNES: I would like to inquire
6 whether or not Section 8 applies to General Election
7 of federal, state, county and municipal officials?

8 THE CHAIRMAN: Delegate Koss.

9 DELEGATE KOSS: Yes, it does.

10 THE CHAIRMAN: Is there any further discussion?

11 Delegate Burdette.

12 DELEGATE BURDETTE: I should like to ask the
13 Chairman of the Committee, if I may.

14 THE CHAIRMAN: Will Delegate Koss yield for
15 a question?

16 DELEGATE KOSS: Yes.

17 THE CHAIRMAN: Delegate Burdette.

18 DELEGATE BURDETTE: Does the Chairman of
19 the Committee also understand that Section 8 as the
20 language implies would have such meaning, or in the event
21 Primaries are required as a method of elimination. This

1 interpretation is shared by Mr. Chabot.

2 THE CHAIRMAN: Delegate Koss.

3 DELEGATE KOSS: We were not in any sense
4 mandating an election for the purpose of nominating
5 candidates. This still is within the framework of the
6 power of the General Assembly, but just if they chose that
7 method, in that event.

8 THE CHAIRMAN: So there will be no misunder-
9 standing, will the Chairman of the Committee on Style
10 please note that the Committee intends the phrase that
11 is the subject of Amendment 17 to mean in the event the
12 amendment is defeated that in the event the General
13 Assembly provides for nomination of candidates by means
14 of Primary Elections, candidates shall be selected by
15 plurality.

16 Is there any further discussion?

17 Are you ready for the question?

18 Delegate Carson.

19 DELEGATE CARSON: Mr. Chairman, I will be brief
20 and apologize for taking the time of the Committee, but
21 I think Delegate Koss' last statement is not consistent

1 with putting this in here.

2 If the Committee does not desire that it be
3 mandated that there be Primary Elections, I suggest
4 it would be very dangerous to include a provision dealing
5 specifically with them in this manner, and regardless
6 of her statement I am not at all sure the courts would
7 follow her one-sentence colloquy.

8 I urge you to vote in favor of the amendment
9 against this language in the Constitution.

10 THE CHAIRMAN: Delegate Sickles.

11 DELEGATE SICKLES: I am going to vote in
12 favor of the amendment. My only problem is I can't figure
13 out any way to make it retroactive. (Laughter).

14 THE CHAIRMAN: Are you ready for the question?

15 The Clerk will ring the quorum bell.

16 Delegate Marion.

17 DELEGATE MARION: Since we don't have the amend-
18 ment before us, although the Chair made it clear --

19 THE CHAIRMAN: The Chair will restate it again.

20 On the adoption of the amendment to Section 8,
21 it will be Amendment 17. You do not now have a printed

1 copy. If you will follow me with your blue copy of the
2 recommendation, I will give you the amendment.

3 On page 3, lines 32 and 33, strike the
4 following: ", or in the case of Primary Elections,
5 become the nominee for".

6 A vote Aye is a vote in favor of the amendment,
7 a vote in favor of the deletion of that phrase. A vote
8 No is a vote against the amendment, a vote in favor
9 of leaving the recommendation as it is printed.

10 Cast your votes.

11 Has every Delegate voted? Does any Delegate
12 desire to change his vote?

13 The Clerk will record the vote.

14 There being 67 votes in the affirmative
15 and 56 in the negative, the motion is adopted and the
16 amendment is carried.

17 Are there any further amendments to Section 8?

18 The Chair hears none.

19 Delegate White, do you still desire to
20 offer your Amendment O?

21 I take it you do not, in view of the action

1 on previous amendments, is that correct?

2 DELEGATE WHITE: I yield to Delegate Gullett.

3 THE CHAIRMAN: Delegate Gullett.

4 DELEGATE GULLETT: I have a question of
5 Delegate Koss which might clarify this on Section 9.

6 THE CHAIRMAN: Very well, Delegate Koss.

7 DELEGATE GULLETT: In the second line where
8 it says "except with respect to non-resident property
9 owners in municipal elections", we, as you now know,
10 have removed that from Section 2 where it was previously.
11 If we are to believe that the Majority statement is true
12 in your commentary where it says this is an extension of
13 the vote rather than a restriction on the right of the
14 vote, then it would appear to me this would be no
15 longer necessary.

16 Do you agree that this phrase would no longer be
17 necessary?

18 THE CHAIRMAN: Delegate Koss.

19 DELEGATE KOSS: Delegate Gullett, I might
20 agree, but I think that this is a question of legal
21 interpretation, and certainly the Committee was not

1 in a position to make that. We differentiated between
2 the restriction of the right to vote and the extension
3 of the right to vote.

4 THE CHAIRMAN: Delegate Gullett.

5 DELEGATE GULLETT: You do say, though, this was
6 an extension of the right to vote. I recall Delegate
7 Claggett made what I thought was a very excellent
8 presentation on this yesterday during the debat on Section
9 2 where I think he agreed with this that it was an
10 extension of the right to vote, that you were acting
11 within a class, you were not discriminating within a class,
12 and therefore it seemed to me like it would be appropriate,
13 and I wonder if we might get some opinion from somebody
14 on the floor as to whether this actually could or could
15 not be taken out of Section 9.

16 THE CHAIRMAN: Delegate Gullett, will you bear
17 with the Chair just a moment?

18 DELEGATE GULLETT: Yes, sir.

19 THE CHAIRMAN: Section 2 was amended by
20 Amendment 8 so that Section 2 now reads: "Qualifications
21 for voters in municipal elections may be established

1 by law by municipal corporations subject to such procedures
2 and standards as the General Assembly may provide by
3 public general law. No municipal corporation may estab-
4 lish a voting age requirement different from the voting
5 age for state elections, nor a residency requirement
6 of more than one year."

7 The Chair takes it, therefore, that under
8 Section 2 it would be possible for a municipality to
9 authorize voting by non-resident property owners.

10 The Parliamentarian calls my attention to the fact
11 that I read the amendment as though 8(a) had been
12 adopted, and 8(a) was rejected, so that this doesn't change
13 the point that you made, Delegate Gullett.

14 The last sentence reads as in Amendment 8,
15 "No municipal corporation may establish a voting age
16 requirement of more than 19 years for a residency require-
17 ment of more than one year."

18 Under the first sentence as amended it would be
19 possible for a municipal corporation to provide for voting
20 by non-resident property owners. If the phrase that you
21 referred to in lines 40 and 41 were deleted, it would seem

1 to the Chair, at least, that the effect of Section 9 would
2 be to prohibit a municipal corporation from providing
3 for election by non-resident property owners, because
4 although you referred to the voting by non-resident
5 property owners as an extension of the voting, that is
6 true only in the limited sense. It is a qualification
7 of voting, because it restricts the non-residents who
8 may vote.

9 In other words, it is a limitation on the non-
10 residents who may vote.

11 The Chair suggests to you, therefore, that
12 if this clause were removed from Section 9, it would be
13 possible at least to construe it as a limitation upon
14 the power of the municipality under Section 2 as
15 amended.

16 Delegate Gullett.

17 DELEGATE GULLETT: Mr. Chairman, I am
18 perfectly willing to accept the construction of the Chair
19 on this matter. I was wondering if the Majority would
20 put in their commendatry what Delegate Clagett suggested
21 yesterday. I am perfectly willing that that stay

1 in there.

2 THE CHAIRMAN: The Chair would like to observe
3 that here again is a matter that the Committee on Style
4 might make note of and consider whether further clarifi-
5 cation is necessary. I don't personally believe it is,
6 but they may.

7 I take it, Delegate White, you would not offer
8 your amendment?

9 DELEGATE WHITE: Mr. Chairman, unless I could get
10 the agreement of the Committee of the Whole of yesterday,
11 I would have no objection. Getting no debate, I take
12 my seat.

13 THE CHAIRMAN: Very well. Thank you.

14 Are there any other amendments to Section 9?
15 If not, we will revert to Section 1.

16 Delegate Carson, is your amendment now printed?

17 DELEGATE CARSON: It is, Mr. Chairman, No. AN.

18 THE CHAIRMAN: Pages will please distribute
19 Amendment AN.

20 This will be Amendment No. 18.

21 Delegate Byrnes.

1 DELEGATE BYRNES: Mr. Chairman, while awaiting
2 the amendment, I would address inquiry to the Chairman
3 regarding Section 9.

4 THE CHAIRMAN: The Committee Chairman?

5 DELEGATE BYRNES: The Committee, yes.

6 THE CHAIRMAN: Delegate Koss.

7 State the question.

8 DELEGATE BYRNES: Is there any question
9 Section 9 refers to General Elections, federal, state,
10 county, municipal?

11 THE CHAIRMAN: Delegate Koss.

12 DELEGATE KOSS: That is correct.

13 THE CHAIRMAN: The Clerk will read the
14 Amendment 18.

15 MR. QUILLEN: Amendment No. 18 to Committee
16 Recommendation No. S&E-2 by Delegates Carson and Grant.

17 On page 1 Section 1 Eligible Voters in Federal,
18 State and County Elections in line 11 after the word
19 "District" add the words: "and county";

20 And in line 17 after the letters "trict" add
21 the words "or county"; and in the same line after the

1 word "another" add the words "district or county";

2 And in line 19 after the word "district" add
3 the words "or county".

4 THE CHAIRMAN: The amendment having been
5 seconded by Delegate Grant, the Chair recognizes Delegate
6 Carson.

7 DELEGATE CARSON: Mr. Chairman, ladies and
8 gentlemen, this is merely a clarification amendment
9 which will make it crystal-clear that in order to vote
10 in a county election, and "county" includes Baltimore
11 City, that one will have to be resident within the
12 boundaries of that county or of Baltimore City. That is
13 the intent of it, and that is all that it does.

14 If anyone wants to challenge the use of the
15 grammar or say that steyle might possibly clean this up
16 better I yield to them, but the intent solely is to make it
17 clear that in order to vote in a county election or an
18 election in Baltimore City you must live there, something
19 I understand the Committee intended and something that
20 should be made crystal-clear.

21 I urge your vote in favor of the clarifying

1 amendment.

2 THE CHAIRMAN: Are there any questions of the
3 sponsor of the amendment?

4 Delegate Sybert.

5 DELEGATE SYBERT: Will the sponsor yield for
6 a clarifying question?

7 THE CHAIRMAN: State the question.

8 DELEGATE SYBERT: Is there any reason why
9 the words "House of Delegates district" should be left in?
10 In other words, can we substitute for the words "House
11 of Delegates district" in view of the fact that the
12 voter won't be voting in his county?

13 THE CHAIRMAN: Delegate Carson.

14 DELEGATE CARSON: I think they are necessary
15 to be left in there for this reason. If you are voting
16 in an election for your Delegate to the House of Delegates,
17 then you have to live within the Delegate district involved.

18 On the other hand, if you are voting in a county
19 election, you have to live in the county involved. The
20 district lines for the Delegate district may not be the
21 same as your county lines, since Delegate districts I am

1 sure in many cases will cross county lines.

2 THE CHAIRMAN: Delegate Miller, do you have a
3 question?

4 DELEGATE BEATRICE MILLER: Yes.

5 THE CHAIRMAN: State the question.

6 DELEGATE BEATRICE MILLER: I would like to ask
7 the sponsor of the amendment if he would make absolutely
8 clear he would have no objection to our changing this
9 in the Style Committee so that we would accomplish the
10 purpose for which he has offered this amendment, and that
11 is to require that a voter reside in the county in which
12 he is going to vote in a county election?

13 THE CHAIRMAN: Delegate Carson.

14 DELEGATE CARSON: None whatsoever, Miss Miller.

15 THE CHAIRMAN: Delegate Marion.

16 DELEGATE MARION: I, too, would like to make
17 clear, because as I read your amendment, if it be adopted,
18 and a person were to have resided for three months
19 next preceding an election in a House of Delegates
20 district which overlapped more than one county but did
21 not reside in one of the counties for that three months,

1 he then would be precluded from voting for any person
2 in the state of Maryland, or any federal office as well.

3 THE CHAIRMAN: Delegate Carson.

4 DELEGATE CARSON: It is intended if a person
5 has lived more than three months in a House of Delegates
6 District he will be eligible to vote in that district.

7 On the other hand, if he has lived in a county
8 for more than three months, he will be eligible to vote in
9 that county.

10 THE CHAIRMAN: Delegate Marion.

11 DELEGATE MARION: Is it correct to say, then,
12 that the only purpose for which you want the word "county"
13 inserted is to make clear that there is a residency require-
14 ment in a county to vote for county elections?

15 THE CHAIRMAN: Delegate Carson.

16 DELEGATE CARSON: Yes, sir.

17 THE CHAIRMAN: So that there won't be any
18 question about it, will the Chairman of the Committee on
19 Style please note that in the event the amendment is
20 adopted it is clearly intended to indicate that in any
21 election in which a voter is voting for candidates running

1 district-wide, Delegate district-wide, residency require-
2 ment pertains to district, and in any election in which
3 the voter is voting for candidates running countywide,
4 county residency is required.

5 Are you ready for the question?

6 Delegate Koss?

7 DELEGATE KOSS: Mr. Chairman, I would point
8 out that certainly I think it is necessary I make
9 a distinction here. Section 1 establishes who are
10 eligible voters, not the candidates for whom they vote.

11 Now, within a county, not only in the House of
12 Delegates district, you might also have councilmanic
13 districts, and it has been the procedure that the county
14 government decide who are eligible to vote in which
15 councilmanic district, and one would assume that that would
16 be people who were resident in that councilmanic district.

17 Now, this gets to be a problem because, as I
18 said, our intention here was just to say who was eligible
19 to vote, to be sure that in order to vote in a county
20 election you be a resident.

21 I suggest that this is really the concern

1 of the local government or the governing body in terms
2 of their charter or their election procedures, because
3 what we are doing here then is -- I don't know what
4 problems you run into, for instance, if a county does
5 divide itself for the purpose of electing people to their
6 local governing body, the County Commissioners, or whatever
7 it might be.

8 THE CHAIRMAN: Very well, are you ready
9 for the question?

10 The Clerk will ring the quorum bell.

11 Delegate Bamberger.

12 DELEGATE BAMBERGER: I am concerned by the
13 Chair's statement of the intention of this, and by the
14 Committee Chairman's explanation.

15 As I understood the Chairman's statement it
16 was that the intention of this was to provide that
17 where officers are being elected by countywide electorate
18 that residence in the county would be required. It is,
19 of course, possible that there are county officers who
20 are not elected on a countywide basis, and I am not
21 quite sure whether the proposer of the amendment intends to

1 mandate that a county shall not have the right to decide
2 that there is a requirement of residence in a particular
3 county district in addition to residence in that county.

4 THE CHAIRMAN: I stated it as I did in referring
5 to countywide candidates because that was what I had under-
6 stood to be the purport of the amendment.

7 The Chair recognizes Delegate Carson.

8 DELEGATE CARSON: It is the intention of
9 the movers of this amendment that in order to vote in any
10 county election, and this includes Baltimore City, you
11 must be a resident either of the county or of Baltimore
12 City in which you vote.

13 It is not the intention of the movers of this
14 amendment that this precludes or permits, it leaves it up
15 to the General Assembly, to provide sub-districting of
16 legislative districts within a county or within
17 Baltimore City.

18 In other words, if you vote for this amendment,
19 it is not intended to preclude Baltimore City from
20 having legislative districts or Baltimore County or any
21 other county from having legislative districts.

1 THE CHAIRMAN: And may I add, if I follow
2 you, that it is not intended to state either that residence
3 or residence in a legislative or councilmanic district is
4 required or is not required?

5 DELEGATE CARSON: That is correct, Mr. Chairman.
6 It would be up to the General Assembly or local govern-
7 ments to decide that, and this would be neutral so far
8 as that is concerned.

9 THE CHAIRMAN: Does that answer your inquiry?

10 DELEGATE BAMBERGER: Yes.

11 THE CHAIRMAN: Are you ready for the question?

12 The question arises on the adoption of Amendment
13 No. 18. The Clerk will ring the quorum bell.

14 A vote Aye is a vote in favor of the amendment.
15 A vote No is a vote against.

16 Cast your vote.

17 Have all Delegates voted? Does any Delegate
18 desire to change his vote?

19 The Clerk will record the vote.

20 There being 78 votes in the affirmative and
21 44 in the negative, the motion is carried. The amendment

1 is adopted.

2 Delegate Bamberger, is your amendment to
3 Section 5 printed?

4 DELEGATE BAMBERGER: Yes.

5 THE CHAIRMAN: In view of the hour, and I take it
6 that amendment may require some explanation, we will take
7 it up after the recess.

8 The Chair recognizes Delegate Powers.

9 DELEGATE POWERS: Mr. Chairman, I move the
10 Committee of the Whole rise and report that it has not yet
11 concluded consideration of Committee Recommendation E&S-2.

12 THE CHAIRMAN: Is there a second?

13 All in favor signify saying Aye. Not in favor,
14 No. The Ayes have it, it is so ordered.

15 (The mace was replaced by the Sergeant at Arms.)

16 (Whereupon, at 1:05 p.m., the Committee of the
17 Whole rose, and the Convention reconvened.)

18 THE PRESIDENT: The Convention will please
19 come to order.

20 On behalf of the Committee of the Whole, the
21 Chair reports the Committee has under consideration

1 Recommendation S&E-2, that it still has the matter under
2 consideration and desires leave to sit again.

3 Are there any announcements necessary to be made
4 by the Committee Chairman before we recess?

5 DELEGATE MUDD: Mr. Chairman, may I announce
6 that the Subcommittee of the Judicial Branch will meet
7 15 minutes after the adjournment for lunch.

8 THE PRESIDENT: Are there any other announce-
9 ments?

10 Delegate Dulany.

11 DELEGATE DULANY: I would like to extend a
12 welcome to 35 members of the Metropolitan Senior Citizens
13 Center of Baltimore sitting in the rear balcony.

14 THE PRESIDENT: We are delighted to have you.

15 Are there any other announcements by Committee
16 Chairmen or any announcement by other Delegates?

17 All Delegates not present on the roll call
18 this morning will indicate their presence on the supple-
19 mental roll call.

20 The Chair recognizes Delegate Powers.

21 DELEGATE POWERS: I move we recess until 2:30.

1 THE PRESIDENT: All those in favor signify
2 saying Aye; those not in favor say No. The Ayes have it
3 and it is so ordered.

4 (Whereupon, at 1:10 p.m., the Convention
5 recessed until 2:30 p.m., the same day.)
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21



1 THE PRESIDENT: The Convention will please
2 come to order.

3 Roll call.

4 (Whereupon, a roll call was taken.)

5 THE PRESIDENT: Has every delegate answered
6 roll call? The Clerk will record the roll call.

7 The Chair recognizes Delegate Sickles.

8 DELEGATE SICKLES: Mr. Chairman, point of
9 personal privilege.

10 THE PRESIDENT: State the privilege.

11 DELEGATE SICKLES: On behalf of the Convention,
12 I would like to extend to 14 Senior Girl Scout Troop 67,
13 Prince Georges County and their leader, Mrs. Kitty Koch
14 and one of the parents, Judge Kathleen Shoap of the
15 Orphans Court of Prince Georges County, we extend them a
16 cordial welcome. (Applause.)

17 THE PRESIDENT: Reports of committees.
18 Committee Recommendation EB-2. The Clerk will read the
19 recommendation.

20 MR. QUILLEN: Committee Recommendation EB-2,
21 by Committee on the Executive Branch, Gerald Morgan,

1 Chairman. A recommendation that the Constitution include
2 sections providing for an elected Attorney General as
3 follows:

4 THE PRESIDENT: Committee Recommendation EB-2
5 is referred to the Committee of the Whole. Supplementary
6 Minority Report GB-6-A. The Clerk will read the report.

7 MR. QUILLEN: Supplementary Minority Report
8 GB-6-A, by Delegates Boyer, Lord, Jett, Key, Singer,
9 Clark, called We of the Committee on General Provisions,
10 a supplementary Minority Report which details the objec-
11 tions of the minority to Committee Recommendation GP-6
12 and explains Section 8.03 and 8.03 as already submitted
13 by the minority.

14 DELEGATE BOYCE: Personal privilege, Mr.
15 President.

16 THE PRESIDENT: State the privilege.

17 DELEGATE BOYCE: Is that minority report being
18 distributed to the delegates? It would b e worthwhile
19 to have a chance to read that over the weekend.

20 THE PRESIDENT: The minority report is being
21 printed and will be distributed this afternoon.

1 DELEGATE BOYCE: Thank you, Mr. President.

2 Committee Recommendation EB-2 just read across
3 the desk is received after the date provided in the
4 rules of November 17 and therefore requires consent of the
5 Convention to be received at this time. The Chair
6 recognizes Delegate Adkins to move that the consent of
7 the Convention be given to receiving Recommendation EB-2
8 at this time.

9 DELEGATE ADKINS: I so move, Mr. Chairman.

10 (Whereupon the motion was duly seconded.)

11 THE PRESIDENT: Any discussion? All in
12 favor, signify by saying Aye; contrary, No. The ayes
13 have it and it is so ordered.

14 Delegate Bradshaw.

15 DELEGATE BRADSHAW: Mr. President, it gives me
16 great pleasure to announce the presence in the gallery
17 immediately above the rostrum of the Current Events
18 Club of the Georgetown Preparatory School of Garrett
19 Park, Montgomery County, Maryland. The boys are accompanied
20 by Mr. Locher. This is an especially happy occasion, I
21 am sure, for the Chairman of our Rules Committee whose

1 son, Al Scanlan, Jr., is part of this class. Al F.
2 Scanlan is one of the officers of the Current Events
3 Club. I ask all of you to welcome this group. (Applause.)

4 THE PRESIDENT: Appendix to Minority Report
5 R&P-1-C. The Clerk will read the report.

6 MR. QUILLEN: Appendix accompanying Minority
7 Report R&P-1-C.

8 THE PRESIDENT: The appendix will be received
9 and distributed.

10 Memorandum of certain delegates. The Clerk
11 will read the memorandum.

12 MR. QUILLEN: Memorandum in support of the
13 deletion of Section 10, Criminal Jury, Judge of Law and
14 Fact, of the majority recommendation as set forth on
15 Page 3, lines 35 through 40, inclusive, of Committee
16 Recommendation R&P-2.

17 THE PRESIDENT: The memorandum will be received
18 and distributed. Any motions or resolutions? The
19 Chair recognizes Delegate Powers.

20 DELEGATE POWERS: Mr. President, I move the
21 Convention resolve itself into the Committee of the Whole

1 for the purpose of considering general orders of the day.

2 THE PRESIDENT: Is there a second?

3 (The motion was duly seconded.)

4 THE PRESIDENT: All in favor, signify by saying
5 Aye; contrary, no. The Ayes have it. So ordered.

6 (Whereupon, at 2:17 p.m., the Convention
7 resolved itself into the Committee of the Whole.)

8 (The mace was removed by the Sergeant at Arms.)

9 THE CHAIRMAN: The Committee of the Whole will
10 please come to order.

11 The Committee of the Whole still has under
12 consideration Committee Recommendation S&E-2. Prior to
13 recess, we were about to consider an amendment being
14 proposed by Delegate Bamberger. The Chair understands
15 that Delegate Bothe has an amendment which she would like
16 to consider first and Delegate Bamberger consents. The
17 Chair recognizes Delegate Bothe.

18 DELEGATE BOTHE: Mr. Chairman and members of
19 the committee, the amendment is not here for distribution
20 but I think I can explain it to you very easily or you
21 can take your pencils out and simply run them across

1 Section 5 because the proposal is that that section
2 which gives the General Assembly some authority to dis-
3 enfranchise felons and people who are mentally incapacitated
4 be deleted from the Constitution and that only the
5 residence and age qualifications contained in the Con-
6 stitution remain as prerequisites to vote.

7 This section --

8 THE CHAIRMAN: Just a second, Delegate Bothe.
9 The proposed amendment not yet printed is to strike all
10 of Section 5, comprising Lines 32 to 40 on Page 2. Is
11 there any objection to considering the amendment at this
12 time though not printed with the understanding that the
13 printed amendment will be on your desk this afternoon?
14 There is no objection. Is there a second to the amendment?

15 (The motion was duly seconded.)

16 THE CHAIRMAN: Amendment being seconded, the
17 Chair recognizes Delegate Bothe to speak to the amendment.
18 This will be amendment 19. Delegate Bothe.

19 DELEGATE BOTHE: Mr. Chairman, these provisions
20 for disqualification of voters has given considerable
21 difficulty to this committee as they did also to the

1 Constitutional Convention Commission, which proposed
2 language somewhat different from that which the majority
3 of the committee brought to the floor.

4 It is my belief in proposing that the Section
5 be deleted first that the General Assembly should have
6 no authority of any sort to disenfranchise anyone, other-
7 wise qualified to vote. But secondly, even if I did not
8 entertain that view, the difficulty in specifying in the
9 Constitution what kinds of people and under what conditions
10 may be disenfranchised and disqualified is such a can of
11 worms, I suggest it best be left closed and untouched
12 in the Constitution.

13 The qualifications set forth in the committee
14 report are two. One goes to persons who have been
15 adjudicated non compos mentis. As an attorney, I can
16 tell you, I think the other lawyers in this room will
17 agree, that the procedure of adjudication of people who
18 are mentally incompetent is very rarely used. There are
19 many more mental incompetents in the hospitals and
20 around the state than are adjudicated non compos mentis.
21 I believe the figures Delegate Koss gave me were that

1 less than 5 per cent of people in the mental institutions
2 would be disenfranchised under this category if the
3 General Assembly so chose to legislate.

4 The other 95 per cent of those so incompetent
5 as to require hospitalization in a ~~mental~~ hospital would
6 remain eligible to vote.

7 As to the category of people who have committed
8 crimes, we had some discussion on this floor about that
9 yesterday. As you know, the present Constitution
10 disenfranchises people who have committed infamous crimes
11 and obviously the committee did not intend that the
12 new Constitution be that stringent.

13 I suggest to you, as a number of delegates did
14 yesterday, that the automatic disenfranchisement of
15 anybody because of his acts is an extremely dangerous
16 precedent. I think if we are going to put categories
17 for disqualification in the Constitution, there are a lot
18 more sensible ones we can set forth, such as take a person
19 with an IQ under 70 should vote or as one delegate
20 proposed that people over a given age be automatically
21 disenfranchised, rather than do any such thing, I think

1 we ought to allow every citizen who meets the minimal
2 qualifications the opportunity, if he sees fit, to take
3 advantage of it, to vote and that we should not tamper
4 with this sacred right. We have not done it in other
5 areas of the Constitution and I just feel we should not
6 do it here. The right to vote is too important.

7 THE CHAIRMAN: Any questions of the sponsor
8 of the amendment? Delegate Clagett?

9 DELEGATE CLAGETT: Will Delegate Bothe yield
10 to a question?

11 THE CHAIRMAN: State the question.

12 DELEGATE CLAGETT: The disqualification provi-
13 sion of the draft constitution provided the General
14 Assembly shall by law establish disqualifications for
15 voting by reason of **mental** incompetence for, or conviction
16 of serious crime and may provide for the removal of such
17 disqualifications, is that not correct?

18 THE CHAIRMAN: Delegate Bothe.

19 DELEGATE BOTHE: I believe you are right. I
20 might add I feel that preferable to what the committee
21 came up with although I would prefer that there be no such

1 provision at all.

2 THE CHAIRMAN: Any further questions?

3 Delegate Cardin.

4 DELEGATE CARDIN: Under your amendment, Delegate
5 Bothe, would that mean that those in penal institutions
6 at present would be permitted to vote?

7 THE CHAIRMAN: Delegate Bothe.

8 DELEGATE BOTHE: Yes. However, a great many
9 people in penal institutions right now are eligible to
10 vote. I happen to live in the same district where the
11 penitentiary is located and I gave that question a little
12 thought when I was running for this office. (Laughter.)

13 As a practical matter, people in mental
14 hospitals and people in the prisons have not exercised,
15 those who have a franchise have not been ~~exerc~~cising it.
16 I have wondered sometimes why no one sought to give them
17 the opportunity but I don't think it would change the
18 situation over what it is today in any measurable extent.

19 THE CHAIRMAN: Delegate Cardin.

20 DELEGATE CARDIN: Forgive me but I can't
21 resist asking if they are a captive electorate?

1 THE CHAIRMAN: That's a **rhetorical** question,
2 I assume. Delegate Burdette. Delegate Gallagher.

3 DELEGATE GALLAGHER: Just a question, Mr.
4 Chairman.

5 THE CHAIRMAN: State the question.

6 DELEGATE GALLAGHER: I wondered if Mrs. Bothe
7 could tell us whether or not people in the **penitentiary**
8 could get an absentee ballot to vote in their home
9 district.

10 DELEGATE BOTHE: I was able to win without
11 them.

12 THE CHAIRMAN: Are there any further questions
13 of the sponsor?

14 Delegate Koss?

15 DELEGATE KOSS: Mr. Chairman, fellow delegates,
16 I would like to speak only at this point to a question
17 of eliminating that whole section rather than to specify
18 language because I understand there will be an amendment
19 offered which puts before this body the language in the
20 draft constitution.

21 THE CHAIRMAN: That is correct.

1 DELEGATE KOSS: I think it is since 1851 but
2 it might have been earlier than that that the Maryland
3 Constitution has included some basis for the disqualifi-
4 cation of voting. It is very hard to get figures in
5 terms of number of people affected by these provisions
6 because in amplification of one question asked Delegate
7 Bothe, I think indeed certain persons who are not
8 convicted of crimes which render them immediately
9 disqualified could apply for absentee ballot and vote.

10 But there are, I think, in addition to the
11 fact that some question as to whether or not people have
12 been deprived of their civil rights in terms of prisons;
13 there is also the whole question of whether people who
14 seek to subvert the electoral process should be permitted
15 to participate therein. This gives the General
16 Assembly the broad flexibility and doesn't limit them in
17 the definition of serious crime. As far as persons
18 adjudicated non compos mentis or mental incompetents,
19 whatever language you want to use, I agree lots of
20 people walking around are probably less competent to vote
21 in elections than people adjudicated. The problem is

1 there should be some standard which protects civil
2 rights and therefore the adjudication standard was used.
3 It seems to us both of those long term provisions of the
4 Constitution should be continued as the committee would
5 therefore hope you would defeat the amendment.

6 THE CHAIRMAN: The Chair can't resist
7 announcing that it just received from Delegate Pullen an
8 envelope with his compliments containing three cough
9 drops.

10 Delegate Wagandt.

11 DELEGATE WAGANDT: Would Delegate Koss yield
12 to a question?

13 THE CHAIRMAN: Delegate Koss.

14 DELEGATE KOSS: Yes, sir.

15 THE CHAIRMAN: Delegate Wagandt.

16 DELEGATE WAGANDT: I just want to clarify one
17 point in my own mind. If Section 5 is omitted, could
18 the General Assembly still provide for some form of
19 disqualification in the area of voting?

20 THE CHAIRMAN: Delegate Koss?

21 DELEGATE KOSS: No, sir.

1 THE CHAIRMAN: Are there any other questions?
2 Delegate Bennett?

3 DELEGATE BENNETT: Mr. Chairman, I would like
4 to support the proposal that this section be eliminated
5 from the Constitution. I don't agree with my good friend,
6 Helen Koss, that the General Assembly couldn't impose any
7 restrictions or disqualifications whatsoever, notwith-
8 standing the fact it were omitted from the Constitution.

9 But let me say I am serving on a committee on
10 the rights of the mentally ill of the American Bar
11 Association and we have been much distrubed by efforts to
12 disenfranchise people for one reason because it handicaps
13 their recovery. If they feel they are under some kind
14 of shame or some kind of disqualification, it makes
15 much more difficult their treatment.

16 Moreover, as Delegate Bothe points out, well
17 over 95 per cent of the people that are in mental hospitals
18 now are there on voluntary commitments, and to subject
19 them to possible disqualification is inhuman.

20 This Convention, I think, can well display
21 the breadth of vision and interest in the well being of

1 their fellow citizens who come into trouble with the in-
2 come tax, for example, or for any other matter and not
3 disqualify them, or not require or mandate their dis-
4 qualification. This branding of them is in the nature
5 of double punishment and should not be permitted or
6 authorized or encouraged.

7 THE CHAIRMAN: Delegate Cardin.

8 DELEGATE CARDIN: Mr. Chairman, may I direct
9 an inquiry to the sponsor of the amendment?

10 THE CHAIRMAN: Does any other delegate desire
11 to speak in opposition to the amendment.

12 DELEGATE RYBCZYNSKI: Yes, sir.

13 THE CHAIRMAN: Delegate Rybczynski.

14 DELEGATE RYBCZYNSKI: Mr. Chairman, I know
15 there is a little laughter going on around about this
16 amendment and section but it is a very serious matter.
17 If you look at Section 3.05 as adopted by this assembly,
18 one of the qualifications for senator or delegate is that
19 the person must be a voter so it is not just a question
20 of pulling the lever.

21 Also in Section 4.02 in order to qualify for

1 governor and, I suppose, other offices, one must be a
2 qualified voter. This is not a light subject but a
3 serious subject, we wouldn't want somebody on the ballot
4 for governor who has a committee appointed to protect his
5 own interest in real estate and other affairs. It is
6 a serious matter and I strongly suggest you go along with
7 the committee report.

8 THE CHAIRMAN: Any other delegate desire to
9 speak in favor of the amendment? Delegate Koss, will
10 you take the floor to yield to a question? Sorry.
11 Delegate Bothe, will you take the floor to yield to a
12 question?

13 DELEGATE BOTHE: Yes.

14 THE CHAIRMAN: Delegate Cardin.

15 DELEGATE CARDIN: The question I was going to
16 ask was answered by Delegate Rybczynski that it would
17 permit a qualified voter since that's the only qualifica-
18 tion to run for office from any penal institution.

19 THE CHAIRMAN: Delegate Bothe.

20 DELEGATE BOTHE: May I speak in favor further?

21 THE CHAIRMAN: You may.

1 DELEGATE BOTHE: And in answer to some of the
2 questions raised in a serious vein. As to the question
3 of whether a felon or insane would run for office, I am
4 not at all concerned about that. I don't see any reason
5 why a convict can't file for office. If the voters want
6 to elect him that again is there a fair and if these
7 same people want to put him in office, I suppose that's
8 the way it will have to be.

9 Again I emphasize that most of the people
10 who are insane in medical terms are not adjudicated
11 non compos mentis. You are not getting rid of lunatics
12 in politics by this provision in the Constitution.

13 As to the absentee voter question in case
14 there is any confusion there, it is my understanding, if
15 I am incorrect, I would appreciate the Chairman of the
16 committee or someone enlightening me, but my understanding
17 is that in order to have an absentee vote, the Legislature
18 must make provision for same. People in the armed
19 services and in other gainful occupations are entitled
20 to vote to cast absentee ballots but I don't know that
21 any provision would have to be made to accommodate those

1 who are in penal institutions of the state.

2 THE CHAIRMAN: The chair, for purposes of
3 clarification, wishes to state that, as he understands
4 the intent of the committee and the purpose of the
5 recommendation S&E-2, the elimination of this section
6 would not authorize the legislature to impose any quali-
7 fications on the right to vote stated in Section 1.

8 I think that was what Delegate Bothe said but
9 I don't want any misunderstanding to arise from the
10 remarks made in course of debate. Ready for the question?
11 The Clerk will ring the quorum bell. Delegate Burdette.

12 DELEGATE BURDETTE: I want to say I shall
13 somewhat reluctantly have to vote against this amendment.
14 I have to take the floor to say so because in the
15 Constitutional Convention Commission and in many
16 conversations subsequently I have gone almost this far
17 but not quite.

18 I can go with Delegate Bothe entirely all that
19 she says except in actually allowing persons who are
20 incarcerated in prisons to cast the franchise. I cannot
21 go that far because I think they could be a controlling

1 vote and I would not be willing to do it.

2 THE CHAIRMAN: Delegate Bennett.

3 DELEGATE BENNETT: Mr. Chairman, in my official
4 life I have been responsible for 750,000 men in prison
5 at different times and never once did any one of those
6 felons ever vote in any election. Even the illustrious
7 former Governor of Massachusetts who went to prison for
8 matters that perhaps I had better not go into at this
9 moment and tried to, as Senator Beall said first time
10 he went there was for taking an examination for one of
11 his friends but later on he went there for violation of
12 a Federal statute and he tried to retain his governorship
13 at that time in which he did not succeed nor did he
14 succeed in drawing the pay of the office.

15 There is no possibility that anyone now in an
16 institution anywhere can either run for election or
17 vote in an election.

18 THE CHAIRMAN: Are you ready for the question?
19 The question arises on the adoption of Amendment 19.
20 You do not have it on your desk. Amendment 19 would strike
21 all of Section 5, lines 32 to 40, inclusive, on page 2.

1 A vote Aye is a vote in favor of the amendment to strike
2 the entire section. A vote No is a vote against the
3 amendment. Cast your votes. Has every delegate voted?
4 Does any delegate desire to change his vote? The Clerk
5 will record the vote.

6 There being 46 votes in the affirmative and
7 81 in the negative, the motion is lost, the amendment
8 fails.

9 Delegate Bamberger, do you now desire to offer
10 your amendment A0?

11 DELEGATE BAMBERGER: I move adoption of
12 Amendment A0.

13 THE CHAIRMAN: Amendment A0 has been distributed
14 and is on your desk. Delegate Bamberger, does the Chair
15 understand you offer --

16 DELEGATE BAMBERGER: If everyone has that
17 amendment before them, there are two modifications I would
18 like to make.

19 On Line 5, substitute the word "may" for the
20 word "shall" and on Line 8, substitute the word "shall"
21 for the word "may".

1 THE CHAIRMAN: The pages will please distribute
2 the amendment. Delegates who have not received the
3 amendment, please indicate to the pages. Do all delegates
4 now have the amendment? Delegates who do not have
5 the amendment, please so indicate and the pages will
6 bring you one. The amendment AO will be Amendment No.
7 20. The Clerk will read the amendment.

8 MR. QUILLEN: Amendment No. 20 to Committee
9 Recommendation S&E-2, by Delegate Bamberger. On Page 2
10 Section 5, Disqualification, strike out all of lines 34
11 through 40, inclusive, and insert in lieu thereof the
12 following:

13 "The General Assembly shall by law establish
14 disqualifications for voting by reason of mental
15 incompetence or conviction of serious crime, and may
16 provide for the removal of such disqualifications."

17 THE CHAIRMAN: The amendment is submitted by
18 Delegate Bamberger. Is there a second?

19 (The motion was duly seconded.)

20 THE CHAIRMAN: The amendment having been seconded,
21 the Chair recognizes Delegate Bamberger.

1 DELEGATE BAMBERGER: Mr. Chairman, now that
2 everyone has a copy of the amendment, I will repeat
3 those two modifications, on Line 5, substitute the word
4 "may" for "shall", on Line 8 substitute "shall" for "may."

5 First this amendment does not raise again
6 the question of whether or not the General Assembly may
7 provide by law for disqualification for voting for
8 conviction of a serious crime. I think we can put that
9 question aside.

10 What it is particularly addressed to is the
11 question of disqualification by reason of some mental
12 illness. The committee report did not give the General
13 Assembly any discretion on that point. The committee
14 report said that any person who has been adjudicated
15 non compos mentis is not entitled to vote.

16 The problem with that is that the committee
17 report adopts an adjudication of a particular fact.
18 An adjudication non compos mentis is now a very rare
19 occurrence in Maryland. It is an almost archaic and
20 very slightly used procedure which is provided for in the
21 statutes, it requires the impaneling of a jury to

1 determine whether a person is competent to handle his
2 affairs or competent to handle his person.

3 The procedure more often used to determine
4 that a person is so mentally ill that he should be
5 confined to a hospital for treatment is the certification
6 by two physicians that a person is insane. That is
7 provided in another section of the law.

8 The evil that I see in the committee report
9 is that first it says that if you are mentally ill and
10 that happens to have been determined in this judicial
11 proceeding, then you shall not be entitled to vote.
12 But if you are mentally ill and you seek treatment
13 voluntarily or you are committed to an institution on the
14 certification by two physicians, then you are still
15 entitled to vote.

16 I do not think this Convention has the
17 knowledge and the experience to make a determination
18 that people who pick any category of mental illness ought
19 not be entitled to vote, I think that is a legislative
20 judgment. The purpose of the amendment is merely to make
21 it clear the legislature may disqualify people from

1 voting if they have a mental illness. I presume the
2 legislature would consider the nature of mental illness
3 and I presume also when dealing with a right as sacred
4 as the right to vote, that they would provide some form
5 of hearing for a person who was going to lose his
6 right to vote.

7 I also intend to provide by this amendment
8 that if the General Assembly does provide a procedure for
9 disqualification either by reason of mental illness or
10 by conviction of crime, that it must, it shall, the
11 shall is intended there to be mandatory as contrasted
12 with may at the beginning of the amendment, so that if
13 the General Assembly does provide a method for disquali-
14 fication, it must provide a way in which that disqualifi-
15 cation may be removed.

16 I understand that this particular language
17 of the committee was suggested by a committee which is
18 studying the mental health laws of Maryland under the
19 leadership of Leon Pierson. I have talked to Mr. Pierson
20 about this. They recognize that having a standard of
21 adjudication of non compos mentis is somewhat arbitrary
but they believe that if this must be in the Constitution,

1 they would rather that it was not there, that the
2 General Assembly should not be given any discretion.

3 While there may be some validity in that
4 point of view, I do not think we should write into the
5 Constitution an absolute disqualification of people
6 because they are mentally ill on the grounds that it
7 has been decided in one forum and not in another forum.

8 THE CHAIRMAN: Are there any questions of
9 the sponsor of the amendment?

10 DELEGATE BENNETT: Mr. Chairman, does the word
11 "mental incompetence" encompass an epileptic?

12 THE CHAIRMAN: Delegate Bamberger.

13 DELEGATE BAMBERGER: I don't know, sir.

14 THE CHAIRMAN: Delegate Bennett.

15 DELEGATE BENNETT: I doubt that anybody else
16 knows.

17 DELEGATE BAMBERGER: Mr. Chairman.

18 THE CHAIRMAN: Delegate Bamberger.

19 DELEGATE BAMBERGER: My further response to
20 that question, Delegate Bennett, would be that it would
21 be up to the General Assembly to examine the nature of
~~the illness of epilepsy and if in their judgment they~~

1 determined it was an illness which so impaired one's
2 ability to function intelligently that he ought not to
3 have the right to vote, they could so decide.

4 I think you get at my point. I don't think
5 this Convention should decide this question and I would
6 leave it to the General Assembly.

7 THE CHAIRMAN: Delegate Bennett, do you have
8 a further question?

9 DELEGATE BENNETT: Yes. Do you think the
10 word "mental incompetency" includes a person with an
11 IQ, for example, under 50?

12 THE CHAIRMAN: Delegate Bamberger.

13 DELEGATE BAMBERGER: No, sir, that's not what
14 is intended.

15 THE CHAIRMAN: Delegate Bennett, do you have
16 a further question?

17 DELEGATE BENNETT: Of course, in this whole
18 field --

19 THE CHAIRMAN: Delegate Bennett, this is a
20 period only for questions.

21 DELEGATE BENNETT: Yes, sir, I understand.

1 Do you think the word "mental incompetency" can be
2 equated with schizophrenia.

3 THE CHAIRMAN: Delegate Bamberger.

4 DELEGATE BAMBERGER: I cannot profess to be
5 an expert on the symptoms and effects of particular
6 mental illnesses. The intention is that mental incompe-
7 tence shall relate to diseases of the mind and certainly
8 should not relate to measures of an intelligence of
9 healthy minds.

10 I am afraid that's the best answer I can
11 give you, I certainly do not feel equipped to respond to
12 questions relating to particular mental diseases.

13 THE CHAIRMAN: Further questions, Delegate
14 Bennett? Delegate Chabot?

15 DELEGATE CHABOT: Delegate Bamberger answered
16 one of my questions. What is the extent of the substan-
17 tive and procedural due process that the General Assembly
18 has to provide before one's right to vote may be removed
19 on account of mental incompetence?

20 THE CHAIRMAN: Delegate Bamberger.

21 DELEGATE BAMBERGER: I have not had occasion

1 to research the law on it but I would think the General
2 Assembly could not provide for any procedure which
3 deprived a person of a right to vote without him having
4 the right to a hearing and the normal guarantees of
5 due process.

6 THE CHAIRMAN: Delegate Chabot.

7 DELEGATE CHABOT: I thought you had given as
8 an illustration of one of the things that might be done
9 a certification by two doctors of insanity.

10 THE CHAIRMAN: Delegate Bamberger.

11 DELEGATE BAMBERGER: No, sir. What I was
12 trying to point out is that under the committee's
13 recommendation, let us take two people who both suffer
14 in the same degree from the same mental illness. If it
15 is decided to treat one and confine one to a hospital
16 through the process of an adjudication of non compos
17 mentis, that person is disenfranchised.

18 On the other hand, another person with exactly
19 the same mental illness, if it is decided he shall be
20 treated by merely having two physicians certify that he
21 is insane and thus be confined to a hospital, he is not
disenfranchised.

1 I merely wanted to point out the inequity that
2 was done by the committee draft which said that if you
3 are found insane by this process, you may not vote but
4 if you are found insane by this other process, you may
5 still vote.

6 THE CHAIRMAN: Delegate Chabot, there are two
7 other delegates desiring to ask questions and Delegate
8 Bamberger has only two minutes. I shall have to recognize
9 the others. Delegate White.

10 DELEGATE WHITE: Delegate Bamberger, can you
11 explain to me why you would require them civilly to
12 establish a standard of disqualification but leave it
13 discretionary in the area of removal.

14 THE CHAIRMAN: Delegate Bamberger.

15 DELEGATE BAMBERGER: It is the reverse of that,
16 Delegate White. I am making it discretionary for empower-
17 ing the General Assembly to establish standards to take
18 away the right to vote but the intention is that if they
19 do set up such a procedure, they must provide a method
20 for removing the disqualification for allowing the person
21 to vote.

1 THE CHAIRMAN: Delegate Lord.

2 DELEGATE LORD: Delegate Bamberger, this
3 language, the General Assembly in the event it establishes
4 disqualification, then must provide for the removal of
5 such disqualification, does this leave them any discre-
6 tion for the General Assembly not to provide, for instance,
7 in bribery or extortion cases?

8 THE CHAIRMAN: Delegate Bamberger.

9 DELEGATE BAMBERGER: Well, the intention is
10 that the General Assembly should provide method for
11 disqualification, I suppose in the area of crime it is
12 possible they could say this cannot be removed but it is
13 the intention they should provide a method for removing
14 disqualification, some way in which the matter may be
15 reconsidered at a future date.

16 THE CHAIRMAN: I take it, Delegate Bamberger,
17 that the legislature under that could provide that the
18 disqualification could be removed only by pardon, for
19 instance?

20 DELEGATE BAMBERGER: Yes. The intention is
21 there must at least be some way in which the matter may

be reconsidered and by pardon or some other method, ip
be removed.

THE CHAIRMAN: Delegate Bamberger's time
for questions has expired. The Chair recognizes Delegate
Koss.

DELEGATE KOSS: Mr. Chairman, and fellow
delegates, the Committee, of course, had before it the
exact language or slightly amended by Delegate Bamberger
in Delegate Proposal 2.

After we started holding hearings on various
aspects of our article, we were contacted by the Governors
Commission to revise the mental health laws as Delegate
Bamberger has indicated and also the Maryland Association
for Mental Health.

They strongly urged that we adopt in our
committee report the language in S&E-2.

I would like to read part of their letter to
you. The Commission, that refers to the Commission to
Revise Mental Health Laws, has a number of professional
members who have a great deal of experience in this area
and is particularly mindful of problems other states

1 have been confronted with in recent years. At the present
2 time in the State of Maryland a person who is disqualified
3 from voting for reasons of mental condition must be
4 adjudicated by a court of law to be fit to manage his
5 own business affairs. The reasons that the Commission
6 and Mental Health Association strongly urged the committee
7 to adopt the language it has in the proposal is one that
8 there is no discretion to the General Assembly. The
9 whole area of discretion that you have given the General
10 Assembly here is subject to standards, for instance,
11 of commitment which is an extremely dangerous thing.
12 At the moment in Maryland's mental hospitals, about one-
13 third of the people there are old people for whom there
14 are no other institutions available. For that reason
15 they unfortunately have to enter mental hospitals. The
16 other possibility that this lends itself to is certifica-
17 tion by two physicians. It doesn't take much imagination
18 to realize how that procedure can be abused.

19 The committee did not feel competent to define
20 the question of mental illness or mental incompetence nor
21 do I think this body is. This is an area of medicine

1 that is subject to daily changes and improved treatment
2 and so on.

3 I admit the number of people involved here in
4 terms of adjudication is minor. At the same time, we
5 have had no evidence that people who shouldn't vote by
6 reason of insanity or mental incompetence are in any way
7 flooding the polls. We felt very strongly that there
8 should be some standard in order to protect the civil
9 rights in order not to permit the undue and unreasonable
10 limitation on a franchise. I strongly urge you reject
11 the amendment.

12 THE CHAIRMAN: Does any delegate desire to
13 speak in favor of the amendment? Delegate Sybert.

14 DELEGATE SYBERT: Mr. Chairman, will the
15 chairman of the committee yield to a question?

16 THE CHAIRMAN: She has used up her time at
17 the moment. If she can get the floor again, we will have
18 her yield. Any delegate desire to speak in favor of the
19 amendment? Delegate Marion?

20 DELEGATE MARION: Mr. Chairman, if it is
21 appropriate, I have a question or two of Delegate Bamberger.

1 THE CHAIRMAN: Does any other delegate desire
2 to speak in favor of the amendment? Delegate Bamberger,
3 will you take the floor to yield to a question?

4 DELEGATE BAMBERGER: Yes.

5 THE CHAIRMAN: Delegate Marion.

6 DELEGATE MARION: Would it be possible under
7 your language for the General Assembly to provide that
8 any person who enters a plea in a criminal case of not
9 guilty by reason of insanity under broadened tests for
10 insanity be disqualified from voting?

11 THE CHAIRMAN: Delegate Bamberger.

12 DELEGATE BAMBERGER: It would be possible.
13 You are saying, is it your question that merely entering
14 the plea would disqualify him from voting.

15 THE CHAIRMAN: Delegate Marion.

16 DELEGATE MARION: That was my question, yes.

17 THE CHAIRMAN: Delegate Bamberger.

18 DELEGATE BAMBERGER: I think it would not be
19 possible.

20 THE CHAIRMAN: Delegate Marion.

21 DELEGATE MARION: Would it be possible for

1 the General Assembly to provide that anyone who was
2 found not guilty after having entered a plea of not
3 guilty by reason of insanity be disqualified from voting?

4 THE CHAIRMAN: Delegate Bamberger.

5 DELEGATE BAMBERGER: I think there would have
6 to be some finding of his mental incompetence as a matter
7 of fact.

8 THE CHAIRMAN: Delegate Marion.

9 DELEGATE MARION: By whom in that situation?

10 THE CHAIRMAN: Delegate Bamberger.

11 DELEGATE BAMBERGER: In that situation under
12 the present criminal procedure by either the judge or
13 the jury which heard the case.

14 THE CHAIRMAN: Do you have further questions,
15 Delegate Marion?

16 DELEGATE MARION: Yes, sir.

17 THE CHAIRMAN: State the question.

18 DELEGATE MARION: As I understand your answer,
19 the General Assembly could provide that that finding
20 by a court or jury in any criminal case would automatically
21 result in a disqualification from voting.

1 THE CHAIRMAN: Delegate Bamberger.

2 DELEGATE BAMBERGER: I must express considerable
3 uncertainty about my answer because I am not really
4 quite certain of just what would be the actual finding
5 in a criminal case where there is a plea of insanity
6 but it certainly does seem to me possible that the
7 General Assembly could say that where in a criminal case
8 a man is found to be not guilty by reason of insanity
9 that they could say that that would amount to a finding
10 of mental incompetency which would disqualify him from
11 voting.

12 THE CHAIRMAN: Delegate Marion.

13 DELEGATE MARION: I have one other question.

14 THE CHAIRMAN: Delegate Marion, Delegate
15 Bamberger only has 30 seconds. If you make your
16 question short so he can answer it quickly.

1 DELEGATE MARION: The last two lines, Delegate
2 Bamberger, related to the provision for the removal of
3 such discriminations.

4 Is that meant to encompass both such things
5 as the time or the occurrence of a particular event or the
6 circumstances for the removal as well as a procedure for
7 removal or declaration of removal for such disqualification?

8 THE CHAIRMAN: Delegate Bamberger.

9 DELEGATE BAMBERGER: Yes, it is intended to
10 provide all of those things.

11 THE CHAIRMAN: Does any Delegate desire to
12 speak in opposition to the amendment?

13 Delegate Schloeder.

14 DELEGATE SCHLOEDER: Mr. Chairman, I would rise
15 to oppose this amendment on a number of grounds.

16 One, I would agree I must say that Delegate
17 Bamberger's answer to Delegate Marion in the last colloquy
18 was disturbing.

19 It would seem from his answer that the jury
20 made up of lay people would judge a defendant not guilty
21 by reason of insanity and the State Legislature could

1 then use that to disenfranchise the defendant.

2 Also, I would suggest that the broadness if
3 you leave it to the General Assembly would not do what
4 Delegate Bamberger would imagine it would do.

5 I would suggest our information was that our
6 Committee that studied this particular question spent
7 more time on it than did the General Assembly, and that
8 those people of the Governor's Mental Health Commission
9 believed that those people who were on the Governor's
10 Mental Health Commission, those who were professionals
11 in the area of mental health, were very much concerned
12 that the General Assembly would broaden this too much,
13 and that the only way to get at the real issue and the
14 real question here was to put it in the language recommended
15 by them to us that we have then recommended to you.

16 For those reasons, I would rise to speak against
17 and hope that you would vote against this amendment.

18 THE CHAIRMAN: Does any other Delegate desire
19 to speak in favor of the amendment?

20 Delegate Claggett.

21 DELEGATE CLAGETT: Would Delegate Bamberger

1 yield for two questions?

2 THE CHAIRMAN: Does any other Delegate desire
3 to speak in favor of the amendment?

4 Delegate Byrnes?

5 DELEGATE BYRNES: Mr. Chairman, I would point
6 out to the House that we have recently rejected an amend-
7 ment.

8 The objection was that we want people mentally
9 incompetent to be disqualified from voting. I don't think
10 the majority recommendation goes to what we want.

11 Secondly, it has the phrase "until such limitation
12 is removed", and at this point I still don't know what
13 that means. I have never heard of an adjudication being
14 removed.

15 Thirdly, I think all of the suggestions made
16 by Delegate Marion and by Delegate Schloeder suggest that
17 the General Assembly would act with wanton disregard
18 for due process and disregard of the sensitivity of this
19 area.

20 The General Assembly has shown over and over
21 again that it is very sensitive about this area, very

1 concerned about this area, and I think we can repose in them
2 a greater deal of confidence than the majority recommendation
3 would seem to say.

4 I suggest we adopt the majority amendment.

5 THE CHAIRMAN: Delegate Taylor.

6 DELEGATE H. E. TAYLOR: Mr. Chairman, ladies
7 and gentlemen of the Convention, I don't know whether
8 there is any significance in the fact that I have been
9 invited to talk about whether a lunatic should vote or
10 not, but during the Committee inspections on this
11 subject I did make certain statements because I have
12 had some experience with lunatics in my law practice,
13 (Laughter) and I know that the court does adjudicate
14 people as incompetent, and the thing that frightens
15 me is to allow the disqualification for voting to be
16 tied to the certification -- because I have tried cases
17 where an instant defense has been made, and having heard
18 psychiatrists for the prosecution as well as the defense,
19 oftentimes I have felt that the jury thinks the psychiatrists
20 are the ones of unsound mind.

21 I have often believed that within the medical

1 profession oft times a man has been led into the specialty
2 of psychiatry to find out what is wrong with them.

3 It has been pointed out that this adjudication
4 would involve very few people, but it is a judicial
5 process, and we can't get into determining whether
6 people are sound enough in mind to do everything but vote.

7 We have got to have some sound test, and I
8 submit this test is adjudication.

9 Now, whether you use the word "remove" or
10 "vacated" we all know that if a court does pass a judgment
11 that that same court has the power to vacate or to
12 remove the judgment.

13 I don't know whether you all know this or
14 not, but Delegate Price is a Methodist minister and, as you
15 know, he talked about services that he had attended at
16 Delegate Dukes' farm, and I understand --

17 THE CHAIRMAN: You have one-half minute,
18 Delegate Taylor.

19 DELEGATE H. E. TAYLOR: I understand that
20 this Sunday Delegate Dukes is going to reciprocate
21 and he is going to watch Delegate Price conduct services

1 in his church, and I hope that you will all join with
2 me in conducting services in the burial of this amendment.

3 THE CHAIRMAN: Does any other Delegate desire
4 to speak in favor of the amendment?

5 Delegate Bamberger, will you take the floor
6 and yield to a question?

7 DELEGATE BAMBERGER: Yes.

8 THE CHAIRMAN: Delegate Clagett.

9 DELEGATE CLAGETT: Delegate Bamberger, can
10 the General Assembly provide and is it your intention
11 that it can provide that the removal of disqualification
12 be death?

13 DELEGATE BAMBERGER: I didn't hear that.

14 THE CHAIRMAN: Does the legislation provide
15 that removal of this disqualification be death?

16 DELEGATE BAMBERGER: I think not. I think
17 it would be such a foolish act on their part it obviously
18 wouldn't be in the Constitutional provision.

19 THE CHAIRMAN: Delegate Koss, will you take
20 the floor and yield to a question?

21 DELEGATE KOSS: Yes.

1 THE CHAIRMAN: Do you desire to question,
2 Delegate Sybert?

3 DELEGATE SYBERT: Would the Committee agree
4 to revamp lines 1 and 2 of Section 5 -- that is lines 34
5 and 35 as printed -- so that they will read "no person
6 who has been adjudicated", or maybe judicially adjudicated
7 non compos mentis or mentally incompetent, which would
8 cover everyone who has been declared by court action
9 non compos mentis or judicially incompetent?

10 THE CHAIRMAN: Delegate Koss?

11 DELEGATE KOSS: Delegate Sybert, am I correct,
12 then, that either the non compos mentis or the mental
13 incompetence would require a judicial determination?

14 THE CHAIRMAN: Delegate Sybert?

15 DELEGATE SYBERT: Yes, that was my question.

16 THE CHAIRMAN: Deleget Koss.

17 DELEGATE KOSS: Legally, is there a difference?
18 I am not understanding, really, what is added.

19 THE CHAIRMAN: I take it, Delegate Koss, that
20 Delegate Sybert is suggesting more as a metter of style
21 than anything else that if there is any question about

1 the word "adjudicated" meaning judicial adjudication,
2 it could be included. I don't think that is the burden
3 of his question.

4 He is really asking you would you object to
5 inserting after the words "non compos mentis" in lines
6 34 and 35, the words "or mentally incompetent".

7 Is that correct, Delegate Sybert?

8 DELEGATE SYBERT: That is correct.

9 THE CHAIRMAN: Delegate Koss?

10 DELEGATE KOSS: My question, I suppose, is
11 how is one adjudicated mentally incompetent?

12 Isn't that the same procedure as is described
13 by non compos mentis?

14 THE CHAIRMAN: I don't know to whom you are
15 addressing the question. If you are addressing it to
16 the Chair, I would be inclined to agree with you, but
17 Delegate Sybert may have different ideas.

18 Delegate Sybert?

19 DELEGATE SYBERT: The formal and old-time, I
20 might say, adjudication of a person as non compos mentis
21 has been by jury action, in court.

1 After a verdict of mental incompetence -- that is,
2 if the person is not compos mentis --

3 THE CHAIRMAN: If I may cut across you, I
4 think I understand what you are getting at, and we could
5 perhaps clear it up by a matter of reference to the
6 Committee on Style.

7 I take it that Delegate Sybert is afraid that
8 the phrase "adjudicated non compos mentis" could refer
9 only to the old sheriff's jury verdict, on writ de lunatico
10 inquiерendo. (Laughter)

11 I am sorry, there is no other way to say it.
12 He is suggesting that since that may not be what the
13 Committee means, would you be willing to use a more
14 modern expression if the Committee on Style deems it
15 appropriate, and I would suggest that you answer in the
16 affirmative. (Laughter)

17 Delegate Koss?

18 DELEGATE KOSS: As long as that language
19 suggested by Judge Sybert would carry out the standards
20 that the Committee wanted, we would certainly be willing
21 to come in in 1967.

1 THE CHAIRMAN: It seems to me, Delegate Sybert,
2 the Committee's intention is clear that by the use of
3 the phrase "adjudicated non compos mentis" they were not
4 intending to refer to any ancient procedures.

5 Delegate Sybert.

6 DELEGATE SYBERT: But as I undersand the law,
7 and I possibly need to freshen up on it, the proceeding
8 to adjudicate a person as non compos mentis is under
9 one series of legal sections, one section of the Code,
10 and adjudication as a mental incompetent is under another.

11 THE CHAIRMAN: Delegate Koss has, at the
12 suggestion of the Chair, given you the affirmative answer
13 that she would not object to the use of the words
14 "adjudication or judicial determination of mental
15 incompetence".

16 DELEGATE SYBERT: Thank you.

17 THE CHAIRMAN: Is there any further discussion?

18 Delegate Wagandt.

19 DELEGATE WAGANDT: Would Delegate Bamberger
20 yield for a question?

21 DELEGATE BAMBERGER: Yes.

1 THE CHAIRMAN: Delegate Wagandt.

2 DELEGATE WAGANDT: I am somewhat concerned
3 with the term "mental incompetence" and how broadly this
4 could be interpreted.

5 Would you accept as a substitute the word
6 "insanity" for "mental incompetence"?

7 THE CHAIRMAN: Delegate Bamberger.

8 DELEGATE BAMBERGER: I won't accept the amend-
9 ment, because I am not sure I know what "insanity" means.

10 I think we should go ahead and vote on this.
11 The point really is rather simple.

12 The point is whether you wish to stay with the
13 Committee's draft which says in the case of insanity I
14 found by a certain procedure a person shall be disqualified
15 from voting, but people just as ill, who are not subjected
16 to the same process, may vote, or whether you wish to say
17 that this is a field which requires further exploration,
18 we do believe that the General Assembly should have
19 the power to remove from the voting rolls people who may
20 not have the mental capacity or mental ability, who may
21 be so diseased in mind as to not be entitled to vote.

1 The amendment suggests that we empower the
2 General Assembly to make these decisions.

3 THE CHAIRMAN: Delegate Lloyd Taylor.

4 DELEGATE LLOYD TAYLOR: I would like to ask
5 Delegate Bamberger a question if he would yield.

6 THE CHAIRMAN: We have had the period of
7 questions of the sponsor renewed four times. I think we
8 have to cut it off some time, so will you limit yourself
9 to one question, please?

10 Will Delegate Bamberger yield for a question?

11 DELEGATE BAMBERGER: I thought you just did.

12 DELEGATE LLOYD TAYLOR: First, I would say
13 I have worked as a case worker for the Department of
14 Public Welfare for a number of years, and we used to certify
15 patients to mental hospitals, and according to my
16 recommendation we only certified -- well, we certified
17 alcoholics, maybe over a thousand people in a year.

18 I am trying to find out are you saying that under
19 the language of the Committee's proposal that their term
20 covered the mental illness of people who are denied the
21 right to vote?

1 This only covers a small amount of people
2 compared to the number of people who are in mental
3 hospitals.

4 THE CHAIRMAN: Delegate Bamberger.

5 DELEGATE BAMBERGER: No, I am not saying
6 that, I am saying only that we are suggesting that the
7 Constitution will say people who are mentally ill and
8 found so by a certain process shall not vote, but that
9 the Legislature and nobody should have the power to take
10 the right to vote away from people who are just as mentally
11 ill and incompetent.

12 THE CHAIRMAN: Are you ready for the
13 question?

14 The question arises on the adoption of
15 Amendment No. 20. A vote Aye is a vote in favor of
16 the amendment. A vote No is a vote against.

17 Cast your votes.

18 (Whereupon, a roll call vote was taken.)

19 THE CHAIRMAN: Has every Delegate voted?

20 Does any Delegate desire to change his vote?

21 The Clerk will record the vote.

1 There being 76 votes in the affirmative, 42
2 in the negative, the motion is carried and the amendment
3 is adopted.

4 I would like to go back to the consideration
5 of Amendments 15 and 16 which were passed. Amendments
6 15 and 16 were passed over at the morning session.

7 Delegate Raley, does the Chair understand that
8 you now wish to withdraw your Amendment 15?

9 DELEGATE RALEY: Mr. Chairman, we are going
10 to want to withdraw that amendment.

11 Over the lunch hour we worked with the Chairman of
12 the Local Government Committee, and others, to work out
13 the language, and we have all agreed upon a new amendment.
14 It will be submitted by Delegate Hanson.

15 THE CHAIRMAN: Delegate Macdonald, do you also
16 withdraw Amendment 16 which was passed over?

17 DELEGATE MACDONALD: I wish to have it passed
18 over in preference to the amendment about to be introduced
19 by Delegate Hanson.

20 THE CHAIRMAN: Very well.

21 Will the Pages please distribute Amendment BA?

1 Delegate Macdonald, I am not sure I understood
2 your last statement. You did withdraw Amendment 16 so
3 that the other amendment could be submitted?

4 DELEGATE MACDONALD: I did not, Mr. Chairman.
5 I wish to have it passed over and we could come back
6 to it if the --

7 THE CHAIRMAN: If the other amendment is
8 not adopted, you want to press your Amendment 16.

9 DELEGATE MACDONALD: Exactly.

10 THE CHAIRMAN: Very well. Amendment BA
11 will be No. 21.

12 While we are waiting for that to be distributed,
13 the Chair can't refrain from announcing that it is
14 greatly touched by the solicitude for the condition of
15 the throat of the Chair. I have now received a package
16 of cough drops from the press corps.

17 The Clerk will read the amendment.

18 MR. QUILLEN: Amendment No. 21 to Committee
19 Recommendation No. S&E-2 by Delegates Hanson, Raley, E. J.
20 Clarke, Macdonald, Scanlan, Gallagher and Moser.

21 On page 3 Section 7 General Elections strike

1 out all of lines 19 through 27, inclusive, and insert in
2 lieu thereof the following words:

3 "A general election shall be held on the Tuesday
4 next after the first Monday in November in 1970 and every
5 fourth year thereafter at which time State officials
6 shall be elected, except that judges may be elected in
7 any even-numbered year. Unless otherwise provided by
8 public general law or by instrument of government,
9 elections of county officials shall be held at the same
10 time as the election for State officials. Elections for
11 officials serving on a staggered term basis may be held
12 every two years."

13 THE CHAIRMAN: The amendment having been
14 seconded by Delegates Raley, E. J. Clarke, Macdonald,
15 Scanlan, Gallagher and Moser, the Chair recognizes
16 Delegate Hanson.

17 DELEGATE HANSON: Mr. Chairman, this amendment
18 retains intact the first paragraph, Section 7 as reported
19 by the Committee Establishing General Elections in each
20 even-numbered year.

21 Secondly, it provides that in each fourth year

1 beginning in 1970 State officials shall be elected.

2 It provides, however, the exception necessary
3 for judges elections to make this section consistent
4 with that already adopted in the Judicial Article, making
5 it possible for judges to run at the next General Election
6 following their appointment.

7 Thirdly, I believe that it meets the problem
8 iwth which we were confronted this morning of attempting
9 to make a special exception for Baltimore City, but not
10 make exceptions for other counties in that it provides
11 the maximum degree of flexibility which would seem to be
12 desirable under the Constitution to permit local
13 governments -- which will have to adopt charters under the
14 local article already adopted by this Committee --
15 the right to determine whether in their judgment they
16 should like to have their elections fall in the same year
17 as state elections, the same year as Presidential elections,
18 or in an odd-numbered year.

19 It would leave the power to the General
20 Assembly to reconcile the dates of elections if too
21 much confusion arose or would give the General Assembly

1 the right, as under the Local Government Article already
2 adopted by this Convention, to by general public law
3 provide a specific time in which all local elections
4 should be held.

5 It would seem, then, in the light of our debate
6 this morning, that the greater wisdom of this Convention
7 ought to be to trust in the wisdom of the General Assembly
8 as events and circumstances indicate to provide for the
9 times of local elections if it need so to do by law,
10 otherwise to permit the local governments through their
11 charters to provide for that situation.

12 Finally, this amendment provides that in
13 counties where there are officials who serve on a
14 staggered term basis, the only example of which at
15 present of which I know is the Montgomery County School
16 Board which consists of seven members, four elected in
17 one even-numbered year, and three elected in another
18 even-numbered year, to continue this practice, or to
19 permit any elected boards that might be established under
20 charter which operate on a staggered term basis to hold
21 those elections in even-numbered years for the number of

1 those people who happened to be up for election at that
2 time.

3 This is what the amendment does. I think
4 it meets the problems which we were confronted with this
5 morning.

6 THE CHAIRMAN: Are there any questions of
7 the sponsor?

8 Delegate Barrick?

9 DELEGATE BARRICK: Yes, I have a question of
10 the sponsor.

11 It seems to me there is one area of flexibility
12 that is not covered by this amendment.

13 As I understand your amendment, you could not have,
14 by law, the metropolitan areas of our state having their
15 elections at the same time as the state elections and
16 have the rural areas have their election at some other time,
17 or vice versa, is that correct?

18 THE CHAIRMAN: Delegate Hanson.

19 DELEGATE HANSON: If the General Assembly
20 provides, by general public law, as that term is defined
21 in the Local Government Article, for a single election

1 date, there would be a single election date.

2 If it withdraws the authority of the local
3 governments to determine the dates of their elections
4 and grants back the option to those local governments
5 to have their elections as their charters may determine,
6 then they may have them as their charters may determine.

7 I would also think that it would be possible
8 for the General Assembly to grant, as I understand the
9 general law provision enacted in the Local Government
10 Article, it would be possible for the General Assembly
11 to provide by general law for the holding of elections
12 but permit particular jurisdictions to opt for a different
13 date.

14 THE CHAIRMAN: Do you have a further question,
15 Delegate Barrick?

16 DELEGATE BARRICK: Yes, I would like to repeat
17 the last sentence. I don't think I followed you.

18 THE CHAIRMAN: Delegate Hanson.

19 DELEGATE HANSON: That it would be possible,
20 as I understand the Article which has been adopted,
21 and the definition of general public law which has been

1 adopted by this Committee, to permit the General Assembly
2 to enact a general law regarding elections, but to permit
3 specific counties to opt a different date specified in
4 the law under the terms of that law.

5 THE CHAIRMAN: Further question, Delegate
6 Barrick?

7 DELEGATE BARRICK: That may be correct, but
8 to leave it without doubt, would you accept an amendment
9 to leave out the word "general"?

10 THE CHAIRMAN: Delegate Hanson.

11 DELEGATE HANSON: I would prefer not to
12 accept such an amendment, to vote on this as it stands
13 to permit the Committee on Style, which I believe is
14 attempting to reconcile the terms "general public law",
15 "by law", and other uses of the term throughout the
16 Constitution, to bring it into reconciliation with the
17 definition which I have just given.

18 THE CHAIRMAN: Delegate Barrick, there are
19 so many delegates wishing to ask questions, I will have
20 to recognize them, and I will have to restrict each
21 Delegate to one question.

1 Delegate Rybczynski.

2 DELEGATE RYBCZYNSKI: It will be a long question.

3 THE CHAIRMAN: Well, don't do that, because
4 there are eight Delegates desiring to ask questions, and
5 there are available less than four minutes.

6 DELEGATE RYBCZYNSKI: Delegate Hanson, our
7 Committee met for nine weeks before we submitted our proposal
8 with our wording.

9 During the 20 minutes that your Committee met
10 this morning, did you determine which judges are going to
11 be elected, because I haven't heard about any elected
12 judges since I have been here.

13 THE CHAIRMAN: Delegate Hanson.

14 DELEGATE HANSON: I am sorry that your
15 Committee overlooked this. I referred to the election
16 of judges running against their records as provided in
17 the Judicial Article.

18 THE CHAIRMAN: Delegate Weidemeyer.

19 DELEGATE WEIDEMEYER: Delegate Hanson, in
20 line 9, "except that judges may be elected", would you
21 accept an amendment which struck out the word "elected"

1 and insert in lieu thereof "approved or rejected", because
2 we are no longer electing, we approve or reject them,
3 and that is in conformity with the provisions and wording
4 in Section 5.21.

5 THE CHAIRMAN: Delegate Weidemeyer, would you
6 be content to leave that to the Committee on Style, if it
7 is stated clearly that the intention is to make this
8 conform?

9 DELEGATE WEIDEMEYER: As long as they say
10 we are not electing but just approving or rejecting judges.

11 THE CHAIRMAN: Is that the intent, Delegate
12 Hanson?

13 DELEGATE HANSON: That is the intent as
14 determined in the Judicial Article.

15 THE CHAIRMAN: Delegate Chabot.

16 DELEGATE CHABOT: The sentence beginning
17 on line 10, "Unless otherwise provided by public general
18 law or by instrument of government", are those coordinated
19 exceptions or if there is a conflict between them does
20 the general law govern over the instrument of government?

21 THE CHAIRMAN: Delegate Hanson.

1 DELEGATE HANSON: It is my understanding
2 that a general public law would govern over an instrument
3 of government in this state.

4 THE CHAIRMAN: Delegate Gallagher.

5 DELEGATE GALLAGHER: Delegate Hanson, in order
6 that there may be no mistake about the application of
7 the local government section to this particular amendment,
8 would it be accurate to say that Section 706, General
9 Application of Laws, applies in its entirety, including
10 the sentence which begins "The General Assembly may
11 nevertheless enable any county or counties to exercise any
12 power or perform any function denied to other counties
13 subject to such standarda as the General Assembly may
14 prescribe"?

15 Is this applicable in its entirety to the
16 amendment before us?

17 THE CHAIRMAN: Delegate Hanson.

18 DELEGATE HANSON: Yes.

19 THE CHAIRMAN: Delegate Schloeder.

20 DELEGATE SCHLOEDER: Delegate Hanson, I don't
21 detect in your argument for this amendment, do I, an argument

1 for the separation of elections?

2 THE CHAIRMAN: Delegate Hanson.

3 DELEGATE HANSON: Delegate Schloeder, I hope
4 that you do not detect that in my argument.

5 My argument is that we should not determine
6 that question in the Constitution. My argument this
7 morning was that if we should determine it in the
8 Constitution we should make them synonymous with State
9 elections.

10 It would be my fervent hope that the charter
11 commissions in the local governments would see the
12 wisdom of the argument that I was making this morning,
13 but I would be willing, in my respect for the wisdom
14 and intelligence of those commissions, to permit them
15 the option of seeing the unwisdom of your argument this
16 morning.

17 THE CHAIRMAN: The Chair suggests there
18 is not time for that lengthy an answer to the questions
19 yet to be asked.

20 Delegate Gleason.

21 DELEGATE GLEASON: As I understand the

1 shared powers doctrine that we have already approved,
2 under this proviso, and specifically with reference to
3 the phrase "or by instrument of government", it is possible
4 under this recommendation for the State of Maryland to have
5 local elections on 24 different dates, is that correct?

6 THE CHAIRMAN: Delegate Hanson.

7 DELEGATE HANSON: That would be possible.
8 I think the likelihood of it is extremely remote.

9 THE CHAIRMAN: Delegate Bard.

10 DELEGATE BARD: Delegate Hanson, I think the
11 answer to my question will be yes, but I do want it in
12 the record.

13 Some time ago we dealt with the matter of
14 filling vacancies, and it was indicated that the person
15 chosen to fill the vacancy shall serve only until the
16 next statewide general election.

17 As the statement reads here on line 7,
18 "in every fourth year thereafter at which time state
19 officials shall be elected" -- this in no sense would be
20 contradictory to what we did in LB-2, is that correct?

21 THE CHAIRMAN: Delegate Hanson.

1 DELEGATE HANSON: I think it contradicts
2 it in no sense.

3 THE CHAIRMAN: Delegate Hanson's time has now
4 expired.

5 The Chair recognizes Delegate Schloeder to speak
6 to the amendment.

7 DELEGATE SCHOLEDER: Mr. Chairman, I find
8 myself viewing this amendment and thinking about
9 the amendment that was passed this morning, the Byrnes
10 amendment, much in the same position as the man who was
11 asked whether or not he stopped beating his wife.

12 I can't get terribly excited about either one
13 of them. I must say that this present Amendment 21
14 is a formidable array for their ad hoc committee, but
15 I find that when I speak to this amendment I don't speak
16 to that part of it that deals with the election of judges
17 or the last line which deals with the election of the
18 School Board of Montgomery County, because we were in
19 committee very willing to accept that in theory.

20 I find that this is a political expedient,
21 I am sure. As such, it is poor. I must publicly say,

1 and I am only speaking here now for myself and really
2 not for the Committee, because the position of the Com-
3 mittee has been so eroded on this particular issue that
4 I don't think that the Committee, as such, has any real
5 interest any more in that sense. Of course, we have
6 the interest as individual Delegates, but the Committee
7 interest has been pretty well eroded.

8 I must say we are a bit disappointed with the
9 city leadership that it would abandon the substantive
10 arguments in principle, for why they would support the
11 separation of elections and go along with this political
12 expedient.

13 It had been hoped that that leadership in
14 its enlightenment would have seen fit to support the
15 principle as it would apply statewide.

16 Personally, I am tempted to say "a pox on
17 both our houses" by these amendments, but I guess this one
18 is better than the Byrnes amendment.

19 I think I will simply say that I will abstain
20 and let the chips fall where they may.

21 THE CHAIRMAN: Are there any other Delegates

1 desiring to discuss the question?

2 Delegate Hutchinson.

3 DELEGATE HUTCHINSON: Mr. Chairman, a similar
4 amendment was discussed on the floor of the Committee
5 in the Committee room, not of course with the exact
6 wording, but a similar proposal, and I must admit that
7 I was sponsor of such a proposal.

8 I must also admit that I was the only vote
9 in the Committee in favor of such a proposal, but that
10 wasn't unusual for me and, in fact, I still support it
11 even though I didn't introduce it perhaps because of
12 lack of imagination on my part, but I am willing to say
13 it was discussed in Committee, I supported it then, and
14 even though my name was on the Minority Report in favor
15 of the Byrnes recommendation, it was only because of the
16 reasons Mr. Hanson gave that I, too, felt that if we
17 were going to constitutionalize such a proposal it should
18 be in the forms of the Byrnes amendment.

19 However, I deem it necessary that I show my
20 support in favor of such amendment because, as Mr.
21 Rybczynski said we did deal with such things for approximately

1 eight weeks, and I gave it great thought, and I think it
2 would be necessary to allow the local governments a little
3 bit of flexibility, as well as the General Assembly a little
4 bit of flexibility in deciding such a problem.

5 THE CHAIRMAN: Does any Delegate desire to
6 speak in favor?

7 Delegate Beatrice Miller.

8 DELEGATE BEATRICE MILLER: If I may, I would
9 like to ask a question, please, sir.

10 THE CHAIRMAN: To whom is the question
11 addressed?

12 DELEGATE BEATRICE MILLER: To Delegate Hanson,
13 I guess.

14 THE CHAIRMAN: Does any other Delegate desire
15 to speak in favor of the amendment?

16 Delegate Clagett.

17 DELEGATE CLAGETT: Mr. Chairman, this is going
18 to be one of my most brief statements in favor. I only
19 advise the Delegates that if they do not vote in favor
20 of it, they will have a reconsideration of Amendment 14.

21 THE CHAIRMAN: Does any other Delegate desire

1 to speak in opposition?

2 Delegate Byrnes.

3 DELEGATE BYRNES: I would say in response
4 to Delegate Schloeder that I, contrary to his thinking,
5 do think that his position is better than this one.
6 I think I might, as I would hope Delegate Schloeder would
7 have done, review with you the thinking of the Committee
8 with regard to uniformity of election days.

9 The majority position was to increase the
10 voter turnout in response to elections. The higher the
11 turnout the more democratic the response, as we have said
12 over and over again.

13 To the extent that elections are relevant to
14 the lives of more people, to that greater extent will the
15 media, television, press, etc., give their greater
16 attention to it.

17 Many small newspapers have their own favorites.
18 The major metropolitan dailies will not cover isolated
19 county elections.

20 If you have a uniformity of date throughout
21 the State, you will have continuous exchange of ideas

1 about governmental policy and structure. If the county
2 election is not at the same time as other similar
3 elections, it will similarly add another election to the
4 calendar of the voter and raise all the other objections
5 we reviewed before.

6 If you have uniformity of decision on when
7 people take office at the county level, it will assist
8 State and national agencies who have to make policy
9 judgments about the transmission of funds and the trans-
10 mission of ideas, and it will be much better for them if
11 this information were available all at one time and they
12 knew who to speak to.

13 One of the unfortunate aspects of this amendment
14 is, I think, perhaps it gives a little too much flexibility
15 to the county structure, which by the simple expedient
16 of a charter amendment, which we all know is not viewed
17 with the greatest of intention by the population of the
18 counties, they can change an election date to suit
19 political necessity at the time. I think this is a very
20 dangerous move.

21 I think if elections are held simultaneously on

1 different levels of government you will have, as we des-
2 cribed before, the exchange of ideas horizontally and
3 vertically. The emphasis I would like to place is not
4 so much on what is wrong about this idea but what is so
5 very right, as we have discussed over and over again,
6 about uniformity of election dates and years.

7 I think finally I would point out that if
8 there is too much freedom granted on the county level to
9 election dates, you will have a continuous jeopardy,
10 you would put the terms of office in continuous jeopardy.

11 THE CHAIRMAN: You have less than a half
12 minute.

13 DELEGATE BYRNES: In summary, I think the
14 essen-e of this proposal is that it would unsettle settled
15 patterns in the State, and that both the Majority and
16 Minority, the thrust of both of our suggestions to you
17 was to establish a uniformity and establish a permanency.
18 This amendment I think would jeopardize that. I urge
19 that you reject it.

20 THE CHAIRMAN: Delegate Gallagher.

21 DELEGATE GALLAGHER: Mr. Chairman, and ladies

1 and gentlemen, just a brief word.

2 It appeared to me this morning that actually
3 what we had been asking for was a constitutional exception
4 naming Baltimore City. When Delegate Dukes raised the
5 point about Prince Georges County being entitled to a
6 similar consideration, it became quite obvious that Balti-
7 more City really ought not, in the interest of good
8 constitutional practice, ask to be spelled out and dealt
9 out specifically in the Constitution.

10 Consequently, it seemed to me a far better thing
11 to do was to arrange to have the charters set the date of
12 election, the Baltimore City revised charter under which
13 we are operating now providing for an election in 1967
14 in November and every four years thereafter.

15 Consequently, in sponsoring this amendment,
16 I am really sponsoring the same idea which we sought to
17 constitutionalize this morning. I realize that Baltimore
18 City runs a hazard that later the General Assembly
19 may decide to act upon the subject matter and change the
20 date.

21 However, this is a hazard which all the counties

1 run, and I don't see why we should ask to have any
2 specific exception for Baltimore City, so therefore in the
3 interest of proper constitutional form and because nowhere
4 else in the Constitution, so far as I know, does any political
5 subdivision have an exception or is it singled out, I felt
6 it would be a far better thing to do to go along with the
7 language of this amendment, which may be extremely
8 flexible but also does allow for the uniformity in the
9 scheduling of elections which many of the members here
10 would like to have if the General Assembly should so
11 conclude.

12 It appears to me, therefore, that while this is
13 a compromise, everyone can find within it the grasp of
14 what they consider to be ideal.

15 If we went any further, it appears to me we
16 would be legislating, and I think we should try to avoid
17 this.

18 I would hope that the amendment would pass.

19 THE CHAIRMAN: Delegate Chabot.

20 DELEGATE CHABOT: Mr. Chairman, I rise in
21 opposition to this amendment. Although, as with Delegate

1 Schloeder, I felt that what we did this morning was bad,
2 I suggest that this amendment is far worse.

3 Under what we did this morning, at least Baltimore
4 City would have its elections in the odd-numbered years
5 and would have the benefits which the majority of the
6 Committee wished the entire State to have.

7 Under this proposal, Baltimore City's status
8 is subject to the, I must use the words, whims and
9 vagaries of politics as it is practiced in this building
10 at other times of the year.

11 I suggest that the Baltimore City delegation,
12 some of whose members complained so mightily a few weeks
13 ago that politics was being practiced in this Convention,
14 and who participated in what I respectfully say is the
15 most arrogant display of politics yet on the floor of this
16 Convention this morning, will rue the day that they gave
17 the rest of the State the option to decide when Baltimore
18 City holds its elections.

19 Accordingly, although I very much disagree
20 with what we did this morning, I urge you to vote down
21 this amendment and keep what we did this morning.

1 THE CHAIRMAN: Delegate Needle, do you desire
2 to speak in favor of the amendment? You may proceed.

3 DELEGATE NEEDLE: I desire to offer an amendment
4 to the amendment.

5 THE CHAIRMAN: Is your amendment printed?

6 DELEGATE NEEDLE: No, it is not.

7 THE CHAIRMAN: Will you state it?

8 DELEGATE NEEDLE: I would strike out the second
9 sentence which runs from the word "unless" in line 10
10 through the word "officials" in line 14 and insert in lieu
11 thereof the following words: "elections of all county
12 officials shall be held on the same day in the same
13 year as provided by public general law."

14 THE CHAIRMAN: As the Chair understands it,
15 Delegate Needle, you would like to amend Amendment 21
16 by striking out the sentence beginning in line 10 and
17 ending on line 14 and inserting in lieu thereof a sentence
18 reading, "elections of all county officials shall be held
19 on the same day of the same year as provided by law", is
20 that correct?

21 DELEGATE NEEDLE: "By public general law".

1 THE CHAIRMAN: The amendment has not been
2 printed.

3 Is there any objection to considering the
4 amendment at this time?

5 DELEGATE BOYCE: Yes.

6 THE CHAIRMAN: Delegate Boyce objects. The
7 amendment can't be considered until printed.

8 DELEGATE NEEDLE: The amendment is written --

9 THE CHAIRMAN: The amendment has to be printed
10 in accordance with the rules and on the desks of the
11 Delegates. If you will get somebody working on it right
12 quickly, you can have it printed.

13 DELEGATE NEEDLE: Can we then suspend
14 consideration of Amendment 21 until this is printed?

15 THE CHAIRMAN: We can't do so without the
16 action of the Committee of the Whole.

17 DELEGATE NEEDLE: I so move.

18 THE CHAIRMAN: We still are discussing the
19 section. Why don't you at least start that amendment in
20 the process of being printed.

21 DELEGATE NEEDLE: Fine.

1 THE CHAIRMAN: Can you get somebody to take
2 care of it? Just a second -- Chief Page, will you please
3 have a Page go see if they can get Mr. Benson to come to
4 the Chamber and see Mr. Needle immediately?

5 Mr. Needle, Mr. Benson will come here, if
6 you will stay in the Chamber.

7 Is Delegate Barrick in the room?

8 DELEGATE BARRICK: Yes, sir.

9 THE CHAIRMAN: Earlier Delegate Barrick
10 had indicated that he desired to make an amendment to
11 the amendment, and the Chair asked him to delay a while.
12 I would have to give priority to Delegate Barrick's
13 amendment over Delegate Needle's.

14 Just a second, Delegate Barrick.

15 Delegates Burgess and Burdette, if you still would
16 desire to offer your Amendment AZ originally written as
17 amendment to Amendment 14, the Chair advise you that you
18 would have to offer it as an amendment to Amendment 21
19 before Amendment 21 is adopted.

20 Delegate Burgess.

21 DELEGATE BURGESS: What we would prefer to do,

1 Mr. Chairman, is to withhold that amendment until we
2 see the outcome of the consideration of Amendment 21.

3 THE CHAIRMAN: If Amendment 21 is adopted, you
4 will not be able to offer your amendment. If Amendment
5 21 is rejected, you will be able to offer your amendment,
6 but not in its present form. It will have to be
7 rewritten as an amendment to Section 7.

8 DELEGATE BURGESS: All right, we would take
9 the latter course, then, Mr. Chairman, in the event 21
10 would fail.

11 THE CHAIRMAN: Would you please have someone
12 be preparing the amendment in proper form now so that
13 it can be ready for us?

14 Delegate Barrick.

15 DELEGATE BARRICK: My amendment is a simple
16 one. It is not printed, but I would hope the Committee
17 would accept it without it being printed. That is merely
18 to take out the word "general" in line 11.

19 THE CHAIRMAN: Delegate Barrick would like
20 to amend the Amendment 21 by striking the word "general"
21 out of line 11.

1 The amendment is not printed.

2 Is there any objection to considering the
3 amendment in the absence of its being printed?

4 Delegate Scanlan.

5 DELEGATE SCANLAN: What amendment was that?

6 THE CHAIRMAN: Amendment 21 is the amendment
7 before you. Delegate Barrick would like to submit an
8 amendment to that amendment to take the word "general"
9 out of line 11. The amendment is not printed. If
10 there is objection, it can't be considered at this time.

11 Delegate Scanlan?

12 DELEGATE SCANLAN: I have no objection to
13 that amendment. It seems to me, as Delegate Hanson
14 said before, it is a matter the Style Committee was
15 going to work on anyway, but if he wants to put it as
16 a formal amendment I wouldn't object.

17 THE CHAIRMAN: Delegate James.

18 DELEGATE JAMES: If this amendment prevails --
19 and I would like to get the intention --

20 THE CHAIRMAN: You mean Delegate Barrick's?

21 DELEGATE JAMES: Yes, I would like to get the

1 import of it. Suppose there were a conflict between the
2 local law, which is what this would permit, and the local
3 charter -- which would prevail?

4 THE CHAIRMAN: Delegate Barrick?

5 DELEGATE BARRICK: Mr. Chairman, it is my
6 understanding that the public law would prevail.

7 THE CHAIRMAN: Delegate James, do you have a
8 further question?

9 DELEGATE JAMES: I just wanted clarification
10 on that, so we will know what the vote is.

11 THE CHAIRMAN: Delegate Borom.

12 DELEGATE BOROM: Mr. Chairman, I think
13 I would object to having the "general public" removed
14 from the amendment we have before us.

15 THE CHAIRMAN: Very well, Delegate Barrick,
16 will you have someone prepare the printed amendment as
17 soon as possible.

18 Delegate Rybczynski?

19 DELEGATE RYBCZYNSKI: Is this an appropriate
20 time to speak against this whole mess?

21 THE CHAIRMAN: If by "whole mess" you mean

1 Amendment 21, it is a proper time to speak in opposition
2 to the amendment.

3 DELEGATE RYBCZYNSKI: Mr. Chairman, as I
4 indicated earlier, we went over these same questions that
5 the other Delegates are now shooting at each other for nine
6 weeks.

7 We went over all these things and went into the
8 question of trying to set up elections within each county
9 at any time that the county wanted. We went into all
10 these things, and it was as a result of the advice
11 given us by many witnesses as the collective opinion
12 of the majority of the Committee, and I might add the
13 very same argument that Delegate Hanson gave this very
14 morning in this same room does not support his own
15 amendment.

16 He talked this morning about trying to join,
17 or put candidates in a position where they would be visible.
18 We have tried to do this by making all county and city
19 elections all the same day so that all elections would get
20 plenty of visibility and plenty of attraction and plenty
21 of publicity.

1 This thing here, I don't know what this is
2 designed to do. My opinion is it is designed to lessen
3 participation and to lessen visibility. All of a sudden
4 everybody has forgotten about this theory that we heard
5 so much about during the legislative article discussions.

6 Now, I might further add, just as Delegate
7 Barrick has pointed out by his attempt to make amendment,
8 when we were discussing here the legislative article
9 I thought we were talking about eliminating local
10 legislation.

11 Now we are throwing local legislation right
12 back into the General Assembly. The whole thing, I will
13 again say, is a mess.

14 You are right where we were on the first day
15 of our first Committee meeting, and you are going to
16 be meeting for nine weeks trying to resolve all these
17 same problems. Maybe you will want us to bring our
18 witnesses in. We will bring them in so they can talk
19 to you about the same problems, now.

20 I would strongly suggest that all these amend-
21 ments to the amendments to the amendments be thrown out,

1 that you accept the Committee report, it is a good one.

2 THE CHAIRMAN: Does any other Delegate desire
3 to speak in favor of the amendment?

4 Delegate Scanlan.

5 DELEGATE SCANLAN: May I use my time in
6 support of the amendment to recapitulate.

7 The Committee's original proposal that the
8 county elections be held in the odd-numbered years
9 was rejected when we adopted Mr. Byrnes' amendment. His
10 was the second alternative that the county elections
11 would be held with state elections except the City
12 of Baltimore would be given the privilege of holding
13 its election in the odd-numbered years.

14 Obviously there is a great unhappiness with
15 the Byrnes amendment, and as Delegate Gallagher put it,
16 it is not very sound constitutional drafting to single
17 out any area of the State for an exception.

18 There is a third alternative, and that is
19 the alternative proposed by Delegate Needle in an
20 amendment that has not yet been printed which would
21 freeze into the constitution the requirement that the

1 county elections and state elections be held at the same
2 time.

3 The fourth alternative is the one before you
4 in the form of Amendment 21.

5 I concede that it is too wordy. I concede
6 that it is too lengthy. I firmly believe that the whole
7 idea could be summarized in one clause, but I am afraid
8 we are too far down the track for that.

9 The Committee on Suffrage and Elections has seen
10 fit to bring in a detailed article and has raised this
11 sort of problem. I am sorry that I and the sponsors of
12 the amendment argue in favor of flexibility and disagree
13 with the arguments of the Committee in favor of freezing
14 into the Constitution a particular manner of holding the
15 county elections.

16 I am very sorry to disagree with my learned
17 colleague, but I do think the issues under all four
18 alternatives have been debated ad nauseum, now, for about
19 three hours, and I think if we can get a vote on this
20 "mess", as Delegate Rybczynski refers to our amendment,
21 I think then at least we will be able to take some pulse

1 of the Assembly and perhaps wrap up this business.

2 THE CHAIRMAN: Delegate Rybczynski.

3 DELEGATE RYBCZYNSKI: Will the Delegate yield?

4 THE CHAIRMAN: Delegate Scanlan, will you
5 yield for a question?

6 DELEGATE SCANLAN: Yes.

7 THE CHAIRMAN: Delegate Rybczynski.

8 DELEGATE RYBCZYNSKI: Can we gather from
9 your argument that we also reconsider Delegate Byrnes'
10 amendment?

11 THE CHAIRMAN: Delegate Scanlan.

12 DELEGATE SCANLAN: Oh, no, if this is
13 defeated, I will take the best of the possible, and
14 while I am not entirely happy with Delegate Byrnes'
15 amendment and it suffers from lack of constitutional
16 symmetry referred to by Delegate Gallagher, nevertheless
17 I would prefer it.

18 Amendment 21 despite its wordiness I think
19 gives you the chance to adopt the principle of flexibility
20 and leaving most of these things to the General Assembly
21 which will act wisely in the matter.

1 THE CHAIRMAN: Delegate Schloeder, will you
2 take the floor to yield to a question from Delegate
3 Beatrice Miller?

4 DELEGATE SCHLOEDER: Yes.

5 THE CHAIRMAN: Delegate Beatrice Miller.

6 DELEGATE BEATRICE MILLER: Mr. Chairman, I am
7 sorry, my question was not to Delegate Schloeder but
8 to Delegate Hanson.

9 THE CHAIRMAN: I am sorry.

10 Does any other Delegate desire to speak in
11 opposition?

12 If not, Delegate Hanson, will you take the floor
13 to yield to a question from Delegate Miller?

14 DELEGATE HANSON: Yes.

15 THE CHAIRMAN: Delegate Miller.

16 DELEGATE BEATRICE MILLER: Delegate Hanson,
17 the Committee on Local Government has now informed
18 the Committee on Style that an enabling act for one or
19 more specific counties is not a general public law but
20 another kind of law.

21 Do you mean that your "otherwise provided by

1 public general law" should apply to all counties at
2 once, or do you mean it for one county?

3 THE CHAIRMAN: Delegate Hanson.

4 DELEGATE HANSON: I mean that general public
5 law as used in this amendment means exactly the same as it
6 means in Section 706 of the Local Government Article.

7 THE CHAIRMAN: Delegate Miller.

8 DELEGATE BEATRICE MILLER: In that case, it
9 would be a law that would apply to all counties at the
10 same time. It could not apply to a county.

11 THE CHAIRMAN: Delegate Hanson.

12 DELEGATE HANSON: That is my understanding.

13 THE CHAIRMAN: Delegate Borom.

14 DELEGATE BOROM: Mr. Chairman, may I comment
15 on Delegate Hanson's answer?

16 For purposes of clarification, his additional
17 statement is true that the General Assembly could pass a
18 law that applied to all counties.

19 On the other hand, as we in the Local Government
20 Committee have construed the public general law, the
21 General Assembly could act to permit each county to act

1 according to its own wishes and desires.

2 THE CHAIRMAN: I take it from what Delegate
3 Hanson has said and from the language of the amendment
4 that that latter kind of statute would not be the kind
5 referred to here, because you would then have to be
6 supplemented further by county action.

7 Would that not be true, Delegate Borom?

8 Delegate Hanson?

9 DELEGATE HANSON: Mr. Chairman, that would be
10 true, but my understanding is that that would be
11 contemplated by the language that we have used here,
12 that that would be a general law and, as I indicated
13 in the responses to questions when I first introduced
14 the amendment, one of the kinds of general laws that
15 could be passed would be one which would grant options
16 available to the counties.

17 THE CHAIRMAN: To counties, but the question
18 as I understood it was whether it would embrace a law
19 authorizing one county to do a specific thing.

20 Was that your question, Delegate Miller?

21 DELEGATE BEATRICE MILLER: Yes.

1 THE CHAIRMAN: Delegate Hanson.

2 DELEGATE HANSON: Insofar as that is within
3 the definition of general public law and all of Section
4 706, as I responded in my answer to Delegate Gallagher,
5 that would be the case.

6 THE CHAIRMAN: I am afraid that answer
7 confuses the Chair even more.

8 If you are referring here to a law of the
9 General Assembly which would authorize but not compel
10 a county to take specific action with respect to elections,
11 I would take it that you do not intend that such law,
12 without the option having been exercised by the county,
13 would be effective under this sentence.

14 Am I correct about that?

15 DELEGATE HANSON: You are correct, Mr.
16 Chairman. The law would not be self-executing.

17 THE CHAIRMAN: Then I think your answer should
18 have been as the Chair indicated earlier. Your "public
19 general law" would then not refer to the kind of law which
20 would authorize a particular county to take action.

21 Delegate Hanson?

1 DELEGATE HANSON: I don't know whether you are
2 making me sound clearer or I am making me sound clearer,
3 Mr. Chairman.

4 THE CHAIRMAN: I am interested only in under-
5 standing the impact of the sentence. As the Chair reads
6 the sentence as presently drafted, the sentence beginning
7 in Section 10, you are providing that elections of county
8 officials shall be held at the same time as election of
9 State officials, unless a public general law says other-
10 wise, or unless the instrument of government says other-
11 wise.

12 Now, with respect to the first "unless", I
13 take it you would not include in that category a law which
14 authorized a county to provide otherwise if the county
15 had not provided otherwise.

16 Delegate Hanson: I believe that is correct,
17 but I am now confused myself.

18 I yield on this to Delegate Moser, Mr. Chairman.

19 THE CHAIRMAN: Delegate Moser.

20 DELEGATE MOSER: I must claim responsibility
21

1 for the Chairman's confusion. It is perfectly clear,
2 I think from earlier colloquy, that what the sponsors
3 intend is that when the term "public general law" is
4 used here that it carries with it the full meaning of
5 706.

6 That is to say -- I can get into a technical
7 discussion of it, but possibly it is better not to,
8 because Style and Drafting is working on this specific
9 problem, but the intention is that the General Assembly
10 will be authorized, if it denies the power to select
11 its particular election date, to all counties, that it
12 may nevertheless permit some counties to select their
13 own election date.

14 Is that clear?

15 THE CHAIRMAN: But if that is done, I take
16 it that the first clause in the sentence beginning in
17 Section 10 does not become operative, it is not the kind
18 of public general law that thereby is in effect, and that
19 it would not become operative unless the county, pursuant
20 to the law, took action.

21 DELEGATE MOSER: That is precisely true.

1 THE CHAIRMAN: Then I would take it that it
2 would necessarily follow that the term "public general law"
3 as used in this sentence, could not possibly embrace the
4 kind of law which authorizes a county to take action.

5 DELEGATE MOSER: Mr. Chairman, that is not
6 what the sponsors intend in this respect, and I guess we
7 will have to get into the technical discussion.

8 THE CHAIRMAN: I am afraid that we are
9 confusing the issue worse if we get into the technical
10 discussion.

11 I suggest to you that the question of intent
12 here does not depend upon that, but depends entirely
13 upon what is intended as a matter of fact.

14 Now, let me ask the sponsor this question,
15 without relation to the language.

16 I take it that the sponsors intend by this
17 section that elections of county officials shall be held
18 at the same time as the election for State officials,
19 even though the General Assembly passes a law authorizing
20 Baltimore City to provide otherwise if in fact Baltimore
21 City does not provide otherwise.

1 Is that correct, sir?

2 DELEGATE HANSON: Yes.

3 THE CHAIRMAN: The Chair is either very
4 abstruse, or I stand on my previous statement.

5 Delegate Clagett.

6 DELEGATE CLAGETT: All that we need to
7 understand, Mr. Chairman, is that by your use of the
8 word "authorize" the Committee does not intend that it
9 shall be a direct authorization but will permit the
10 County, or Baltimore City by its own enabling act to do
11 that which is authorized.

12 THE CHAIRMAN: That is the way in which I
13 used the word.

14 DELEGATE CLAGETT: That is where I think
15 Delegate Hanson is failing to appreciate what you were
16 trying to say.

17 THE CHAIRMAN: Then I regret the confusion.

18 Delegate Marion.

19 DELEGATE MARION: Mr. Chairman, could I direct
20 a question on another subject to the sponsor of the
21 amendment, Delegate Hanson?

1 THE CHAIRMAN: The Chair has completely lost
2 track of where we are in the debate and must say yes.

3 Delegate Hanson, will you yield to a question?

4 DELEGATE HANSON: Yes.

5 THE CHAIRMAN: Delegate Marion.

6 DELEGATE MARION: Could you tell me whether
7 there is any language in your amendment which affects
8 or restricts in any way the time for holding elections,
9 if any, for officials of a popularly elected represent-
10 ative regional government if any should be created
11 under the language of Section 710 of this Constitution?

12 THE CHAIRMAN: Delegate Hanson.

13 DELEGATE HANSON: I know of no language
14 in this amendment which would so restrict, and it is
15 not the intention of this amendment so to restrict, and
16 if there is an instrument of government of such a
17 regional body, it could make the determination in the
18 same manner as the county, or that determination could
19 be made by the law establishing the regional government
20 or by subsequent law applying to all regional govern-
21 ments.

1 THE CHAIRMAN: Delegate Marion.

2 DELEGATE MARION: I have nothing further.

3 THE CHAIRMAN: Very well.

4 Delegate Needle, do you know whether your
5 amendment is printed?

6 Delegate Barrick?

7 DELEGATE BARRICK: Mr. Chairman, I am a
8 little confused myself, and I was wondering if I might
9 direct one question to Delegate Hanson.

10 THE CHAIRMAN: Delegate Hanson, would you
11 yield to a question?

12 DELEGATE HANSON: Yes.

13 THE CHAIRMAN: Delegate Barrick.

14 DELEGATE BARRICK: By your use of "general law"
15 in line 11, do you mean that the General Assembly could
16 act in an affirmative manner on a county-by-county
17 basis dealing with this subject matter?

18 THE CHAIRMAN: Delegate Hanson.

19 DELEGATE HANSON: Not in a fashion that would
20 be self-executing, as I understand the term as it has
21 been used elsewhere in the Constitution as we have

1 adopted it.

2 THE CHAIRMAN: Delegate Barrick.

3 DELEGATE BARRICK: But if we took the word
4 "general" out, then you agree that they could deal with
5 it self-executing on a county-by-county basis?

6 THE CHAIRMAN: Delegate Hanson.

7 DELEGATE HANSON: I am fearful if we took
8 out the term "general public" or "public general",
9 whichever way it occurs, that we would be left with an
10 ambiguity which the sponsors of this amendment do not
11 intend, which could, since this does not appear in the
12 Local Government section, possibly be led to open the
13 door again to the old local legislative practice of
14 permitting the General Assembly to pass a local law
15 applying to a specific county, and that is definitely
16 not our intention.

1 THE CHAIRMAN: For what purpose does Delegate
2 Frederick rise?

3 DELEGATE FREDERICK: I would like to ask one
4 question of the sponsor.

5 THE CHAIRMAN: Delegate Hanson, will you
6 yield to another question?

7 DELEGATE HANSON: Yes.

8 THE CHAIRMAN: Delegate Frederick.

9 DELEGATE FREDERICK: I ask the question unless
10 otherwise provided by public general law or by instrument
11 of government, can the public general law override the
12 charter provision of the city or the county?

13 THE CHAIRMAN: Delegate Hanson.

14 DELEGATE HANSON: Yes. A public general law
15 would override a charter provision which was contrary to
16 public general law.

17 THE CHAIRMAN: Delegate Frederick.

18 DELEGATE FREDERICK: In other words, if the
19 Baltimore City charter provided for election in 1971
20 and a county charter provided for their election in 1970,
21 further public general law could knock both those

1 provisions out.

2 THE CHAIRMAN: Delegate Hanson.

3 DELEGATE HANSON: Yes, as Delegate Gallagher
4 explained, this would be the same in the case of any
5 county. It could establish its elections at any time it
6 chose under its charter but the General Assembly could
7 by general law at some later time, if it felt it necessary
8 and desirable to do so, reconcile elections and place
9 them all at the same time.

10 THE CHAIRMAN: For what purpose does Delegate
11 Storm rise?

12 DELEGATE STORM: One further question from
13 Delegate Hanson.

14 THE CHAIRMAN: Delegate Hanson, do you yield
15 to another question?

16 DELEGATE HANSON: Yes.

17 DELEGATE STORM: With further reference to
18 your answer to Delegate Frederick's question, did I
19 understand an earlier answer to say that you were quite
20 confident that with the number of votes that the Baltimore
21 City delegation has in the General Assembly and with the

1 desire of the state to satisfy Baltimore City in such a
2 matter that they would never pass any law which would
3 interfere with Baltimore City's desires in this, in their
4 charter? Wasn't that correct?

5 THE CHAIRMAN: Delegate Hanson.

6 DELEGATE HANSON: Mr.Chairman, I wish to
7 compliment the delegate from Frederick County in understand-
8 ing what I fear I made only implicit in my remarks but
9 he has brilliantly analyzed those remarks and made quite
10 clear their meaning.

11 THE CHAIRMAN: Delegate Storm.

12 DELEGATE STORM: I don't claim any credit
13 like that but I felt I should calm Delegate Frederick's
14 fear because I can see him being dissatisfied with this
15 excellent amendment.

16 THE CHAIRMAN: Delegate Hanson.

17 DELEGATE HANSON: Mr.Chairman, I think I could
18 make one short statement that might simplify the thinking
19 here. What this amendment means is that all elections
20 will be at the same time unless the charter of a county,
21 such as that of Baltimore City, or unless the General

1 Assembly by public law provides otherwise. The chances
2 are extremely high I would suggest that all elections
3 will be at the same time with the exception of Baltimore
4 City.

5 THE CHAIRMAN: Does any other delegate desire
6 to speak in opposition to the amendment? Is Delegate
7 Needle in the room? Will the delegates please take their
8 seats. Two delegates have requested this committee to
9 consider and discuss amendments to a pending amendment
10 even though they have not been printed. Permission has
11 been refused and this is understandable, at least, in
12 the case of one, and possibly both amendments.

13 However, I suggest to the committee that it
14 has not on any previous occasion insisted upon a vote on
15 an amendment in order to cut off the opportunity of any
16 delegate to submit another amendment. The Chair strongly
17 urges that you do not do so at the present time.

18 If necessary, the Chair will recognize Delegate
19 Needle so that he can submit the matter to a vote. The
20 Chair would much prefer to follow the course it has hereto-
21 fore followed and suggests that we informally stop talking

1 for ten minutes at which time the amendments will be here.
2 Delegate Borom.

3 DELEGATE BOROM: Mr. Chairman, if it is
4 permissible, I will withdraw my objection to the amendment
5 Mr. Barrick wants to put to the floor.

6 THE CHAIRMAN: Very well. Delegate Boyce.

7 DELEGATE BOYCE: Mr. Chairman, I will do the
8 same and withdraw my objection to Mr. Needle if that is
9 what the Chair wishes, sir.

10 THE CHAIRMAN: Thank you very much. Delegate
11 Needle, I take it you would not be willing to embrace
12 Delegate Barrick's amendment in yours so that they could
13 be considered as one? I take it you regard the matter
14 as too important to pass over in that fashion? I am not
15 trying to urge you to do so. I am just trying to find
16 your intent.

17 DELEGATE NEEDLE: I am not certain how his
18 amendment could be embraced in mine. If you could state
19 that, Mr. President, I would be glad to consider it.

20 THE CHAIRMAN: I don't believe it can and
21 under the circumstances, the Chair will recognize Delegate
Barrick to speak to his amendment.

1 We will take it up first . Then we will consider Delegate
2 Needle's amendment and the Chair very much appreciates
3 the position taken by Delegates Borom and Boyce.

4 DELEGATE BARRICK: Mr. Chairman, I will be
5 very brief. My amendment would eliminate the word
6 "general" in Line 11, which would read, "unless other-
7 wise provided by law." I think it has been made very
8 clear if we do this, the General Assembly could in an
9 affirmative way pass on these election laws on a county
10 by county basis by setting the time of the election.

11 It seems to me this is desirable in order to
12 get the flexibility we have been looking for. We have
13 been flexible giving Baltimore City what they want and
14 I submit we can be flexible in giving each county what
15 they want. I can see metropolitan areas of our state
16 may wish to have all their elections at the same time
17 other than the time when state officials are running,
18 but in the more rural areas, it is imperative in my
19 opinion state officers run at the same time the county
20 officers run.

21 This gives a somewhat longer ballot, gives much

1 more interest in the election and it in my opinion brings
2 out a much larger vote than if we would only have our
3 county issues in question.

4 It is for the idea of flexibility, the idea
5 we can deal with our different counties by law in different
6 ways and it would give the General Assembly the flexibility
7 that I think it is desirable to have in this particular
8 instance.

9 THE CHAIRMAN: Delegate Schloeder, do you
10 desire to respond to Delegate Barrick's support of
11 Amendment 21-A to take the word "general" out of Line 11?

12 DELEGATE SCHLOEDER: I am sorry, Mr. Chairman.
13 I was out of the room and just came in. I would hate to
14 have him repeat all that but could he sum it up in a
15 word or two?

16 THE CHAIRMAN: No, you will catch the drift.
17 Delegate Hanson, do you desire to reply?

18 DELEGATE HANSON: Mr. Chairman, I think I
19 already replied to Delegate Barrick. I think the degree
20 of flexibility which is desirable is contained in the
21 language as we used it. It would permit those things

1 which we have discussed on the floor before in the way of
2 options available to the General Assembly in the form of
3 general public law. I do not think we should be in
4 position of having the General Assembly act for each
5 county without a consideration of what it has been doing
6 for other counties in this area. For that reason, I feel
7 it is very important that we retain the phrasing as it
8 has been used in my amendment and I would hope Senator
9 Barrick's amendment is rejected.

10 THE CHAIRMAN: Any other delegate desire to speak
11 in favor of the amendment?

12 Delegate Byrnes.

13 DELEGATE BYRNES: Mr. Chairman, I have a
14 parliamentary inquiry, if I might.

15 THE CHAIRMAN: State the inquiry.

16 DELEGATE BYRNES: For the record, it would be
17 helpful to make it clear whether adoption of Amendment
18 21 would strike out Amendment 14.

19 THE CHAIRMAN: You are talking now about
20 Amendment 21, not 21-A, I take it?

21 DELEGATE BYRNES: 21, sir.

1 THE CHAIRMAN: If Amendment No. 21 is adopted,
2 it would eliminate the last two paragraphs of Section 7,
3 which would, of course, include the second paragraph
4 as amended by Amendment No. 14.

5 Delegate Clagett.

6 DELEGATE CLAGETT: Mr. Chairman, another
7 parliamentary inquiry. How can we get to a vote on
8 Section 7 eliminating Amendment No. 14?

9 THE CHAIRMAN: The effect of Amendment No. 14,
10 you mean apart from a consideration of Amendment 21?

11 DELEGATE CLAGETT: Well, as I understand,
12 Amendment 21 is before us now and we are going to have to
13 yea or nay on that.

14 THE CHAIRMAN: If it is adopted, it in effect
15 nullifies everything done in Amendment 14.

16 DELEGATE CLAGETT: Then my question is how can
17 we go back and vote on Section 7 as the committee originally
18 recommended it.

19 THE CHAIRMAN: To move to reconsider Amendment
20 14.

21 DELEGATE CLAGETT: If 21 is adopted --

1 THE CHAIRMAN: I thought you said if 21 is
2 rejected.

3 DELEGATE CLAGETT: If 21 is rejected. Now the
4 other side of the coin. If 21 is adopted, how do we
5 get at a vote upon the original Section 7 as recommended
6 by the committee?

7 THE CHAIRMAN: You could not unless you
8 reconsidered the vote by which 21 was adopted. If you
9 want the original committee language, you would vote
10 against Amendment 21.

11 DELEGATE CLAGETT: Will you say that a little
12 louder, please, sir.

13 THE CHAIRMAN: I will state it at the proper
14 time so that everybody will be clear about it.

15 Is there any other delegate who desires to
16 speak in favor of Amendment 21-A to eliminate the word
17 "general"? If not, Delegate Barrick, will you please
18 state very succinctly in not more than one-third the
19 sentences the point you made with respect to this so that
20 Delegate Schloeder can know whether or not to reply?

21 DELEGATE BARRICK: Mr. Chairman, if you strike

1 out the word "general" in my opinion the General Assembly
2 may deal with the election, time of election, on a county
3 by county basis in an affirmative manner.

4 THE CHAIRMAN: Did you follow him, Delegate
5 Schloeder?

6 DELEGATE SCHLOEDER: Yes, I did. I don't think
7 it is my place to comment on an amendment by Hanson,
8 Raley, Clark, Macdonald and Scanlan and Gallagher.

9 THE CHAIRMAN: I don't insist that you do. I
10 merely give you the opportunity.

11 DELEGATE SCHLOEDER: I sit down.

12 THE CHAIRMAN: Thank you. Is there any further
13 discussion? Are you ready for the question? The Clerk
14 will ring the quorum bell. The pages will please distribute
15 the amendments marked 21-B and 21-A. Will you please
16 correct your copies to reverse it, 21-B is the amendment
17 we are now considering. The two-line amendment is 21-A.

18 Before voting on the amendment, I will ask the
19 Clerk to read it. Amendment 21-A.

20 MR. QUILLEN: Amendment 21-A to amendment No.
21 21 to committee recommendation No. S&E-2 by Delegate

1 Barrick. On Page 1 of the amendment in Line 11 strike
2 out the word "general".

3 THE CHAIRMAN: For what purpose does Delegate
4 Macdonald rise?

5 DELEGATE MACDONALD: To speak to the amendment,
6 Mr. Chairman.

7 THE CHAIRMAN: Proceed.

8 DELEGATE MACDONALD: Mr. Chairman, I rise to
9 oppose this amendment. I wasn't going to get up to
10 say anything but since we rang the quorum bell two or
11 three delegates have walked by here and said what does
12 this do? This little amendment would strike out one
13 word and is in direct opposition to the Local Government
14 Article, which you adopted not so long ago. By the Local
15 Government Article we will get rid of local legislation.
16 This little amendment would allow the General Assembly to
17 deal in this subject matter by local legislation. I
18 urge that you oppose it.

19 THE CHAIRMAN: Are you ready for the question?
20 The question arises on the adoption of Amendment 21-A. For
21 what purpose does Delegate White rise?

1 DELEGATE WHITE: To vote against.

2 THE CHAIRMAN: The question arises on the
3 adoption of Amendment 21-A. To avoid confusion, the Chair
4 will not at this time explain the effect of a vote for
5 or against Amendment 21. I will explain the effect of a
6 vote for or against Amendment 21 when we consider that
7 amendment.

8 The question now arises on the Amendment 21A
9 which is merely to strike -- the amendment, as distributed
10 and printed 21-B is in fact 21-A. The amendment
11 distributed to you printed, Amendment 21-A, is in fact 21-B.
12 I am sorry that that mistake occurred in printing but the
13 printer didn't know the order in which they would be
14 offered.

15 The question now arises on the two-line amendment
16 which is Amendment 21-A to amendment 21. A vote Aye
17 will be a vote in favor of the amendment. A vote no
18 will be a vote against the amendment, has to do merely
19 with the word "general". For what purpose does
20 Delegate Boyles rise? Very well. A vote Aye is a vote
21 in favor of the amendment to delete the word "general"

1 from Line 11 of Amendment 21. A vote No is a vote against.
2 Cast your votes.

3 (Whereupon a roll call vote was taken.)

4 THE CHAIRMAN: Has every delegate voted?
5 Does any delegate desire to change his vote? The Clerk
6 will record the vote.

7 There being six votes in the affirmative and
8 109 in the negative, the motion is lost, the amendment
9 is rejected.

10 Amendment 21-B is now printed and on your desk.
11 It is the one which in print is marked 21-A. Please
12 change the A to B. The amendment has been offered by
13 Delegate Needle. Any delegates who do not have the
14 amendment, please indicate to the page. Amendment 21-B
15 is offered by Delegate Needle. Is there a second?
16 Is there a second?

17 (The motion was duly seconded.)

18 The amendment having been seconded, the Chair
19 recognizes Delegate Needle to speak to the amendment.
20 Just a second, Delegate Needle. The Clerk will read the
21 amendment.

1 MR. QUILLEN: Amendment No. 21-B to Amendment
2 No. 21 to committee recommendation No. S&E-2 by Delegate
3 Needle, on Page 2 of the amendment in Lines 10 through 14
4 inclusive, strike out the sentence beginning with "Unless
5 otherwise" in Line 10 down to and including "State
6 officials." in line 14, and insert in lieu thereof the
7 following sentence:

8 "Elections of all county officials shall be
9 held on the same day in the same year as provided by
10 public general law."

11 THE CHAIRMAN: Delegate Needle.

12 DELEGATE NEEDLE: Mr. Chairman, I must apologize
13 for the delay in the deliberation of this body which was
14 occasioned by preparation of this amendment. I am sorry
15 if this body has gotten sidetracked. I think, however,
16 this amendment will bring us back on the right track.

17 Unfortunately, I think there is much concern
18 about the meaning of the sentence which my amendment
19 deletes from Amendment 21 and I hesitate to see this body
20 adopt the wording in that sentence which is subject to
21 such doubt.

1 The most desirable thing in my amendment and
2 the thrust of it is to provide uniformity among all the
3 counties in their elections. That is what Delegate Byrnes
4 spoke to so eloquently, Delegate Schloeder and Delegate
5 Chabot and a number of other delegates here who gave me
6 the strength to offer this amendment.

7 I think it is essential when taking into
8 consideration the action of this Convention with regard
9 to the Local Government Article that we make the
10 counties as visible as we are going to make them viable.
11 It is essential that all of the counties in my opinion hold
12 their elections on the same day in the same year. That,
13 however, can be provided by the General Assembly. I don't
14 think it proper that it be provided in this Constitution.
15 I think this amendment provides for the uniformity with
16 which both the majority recommendation and the minority
17 report /S&E-2 desire. as Delegate Byrnes in his presentation
18 of the minority report also indicated.

19 However, it leaves the final determination to
20 the General Assembly. It will not permit the local
21 subdivisions or the General Assembly to provide different
election dates for each county which would result in a

1 hodge-podge of county elections throughout the state.
2 Some may have their elections in the same year as
3 presidential elections, some when there are state elections,
4 some in the third year, some in the fourth year, some at
5 any other date during any of those years if Amendment 21
6 is adopted.

7 I think that amendment 21-B to Amendment 21
8 clearly would focus attention and awareness on county
9 elections, county candidates and county issues which is
10 so vital when taken into consideration with this Convention's
11 action on GL-1, I urge you to support 21-B to amendment
12 21.

13 THE CHAIRMAN: Delegate Schloeder, do you
14 desire to comment?

15 DELEGATE SCHLOEDER: No, sir, I am busy back
16 here trying to get my forces together for a
17 reconsideration. I think that certainly the Needle
18 amendment, certainly adds and helps clarify the Hanson
19 amendment and I think it does help. I don't think, however,
20 that, I am sure Delegate Needle would agree that it is not
21 as good as the majority, the original committee position,
which by this time, I think, many people might at least

1 like to have a vote on. That is, if the city delegation,
2 Baltimore City Delegation, would not again abstain.

3 THE CHAIRMAN: Delegate Hanson.

4 DELEGATE HANSON: Mr. Chairman, as much as I
5 appreciate Delegate Needle's attempt to help, I think
6 the practical effect of the Needle Amendment is one of
7 two undesirable alternatives for this Convention.
8 Alternative one is that the election date for Baltimore
9 City would have to be changed to coincide with the state
10 elections because all of the other counties have their
11 elections at that time and all the other counties have
12 more votes in the General Assembly than Baltimore City
13 and it would be easier for them to do it that way than to
14 take account of Baltimore City.

15 The other alternative is Baltimore City would
16 be sufficiently able to prevail upon the sympathies of
17 their colleagues in the General Assembly so that all
18 elections would be held on the same date as those in
19 Baltimore City. These, it seems to me, are the two
20 practical outcomes or the two possible and the only two
21 possible practical outcomes of the adoption of this

1 amendment.

2 So I thank the gentleman, but, no thank you.

3 THE CHAIRMAN: Any further discussion.

4 Delegate Rybczynski.

5 DELEGATE RYBCZYNSKI: On personal privilege
6 while on the Needle amendment, Mr. Chairman, allow me
7 to introduce to the committee Chief Judge Phyllis Johnson
8 who is the wife of Delegate Johnson, who is immediately
9 above my left and their two children, Cynthia and Joseph,
10 who, I understand, are commissioners in the court set-up
11 at home. (Applause.)

12 THE CHAIRMAN: Are you ready for the question?
13 Ring the quorum bell.

14 The question arises on the adoption of
15 Amendment 21-B to Amendment 21. A vote Aye is a vote in
16 favor of the amendment to the amendment. A vote No is
17 a vote against. Cast your votes. Has every delegate
18 voted? Does any delegate desire to change his vote?
19 The Clerk will record the vote.

20 There being thirteen votes in the affirmative
21 and 106 in the negative, the motion is lost, the amendment

1 to the amendment is rejected.

2 The question now arises on the adoption of
3 Amendment 21. Are you ready for the question? The
4 question arises on the adoption of Amendment 21. A vote
5 Aye is a vote in favor of the amendment, a vote no is a
6 vote against. Cast your vote. Has every delegate voted?
7 Does any delegate desire to change his vote? The Clerk
8 will record the vote.

9 There being 97 votes in the affirmative and 19
10 in the negative, the motion is carried, the amendment is
11 adopted.

12 I take it Delegates Burgess and Burdette, you
13 do not desire to offer your amendment?

14 DELEGATE BURGESS: That is correct, Mr. Chairman.

15 THE CHAIRMAN: Thank you. The Chair is unaware
16 of any further amendments to Committee Recommendation S&E-2.
17 Are there any? Delegate Weidemeyer.

18 DELEGATE WEIDEMEYER: Mr. President, I have
19 amendment AP, which AP released, and I would like to
20 offer that.

21 THE CHAIRMAN: For what purpose does Delegate

1 Claggett rise?

2 DELEGATE CLAGETT: Parliamentary inquiry, sir.

3 THE CHAIRMAN: State the inquiry.

4 DELEGATE CLAGETT: Would it be proper to submit
5 as an amendment Section 7 of the committee recommendation
6 as originally written?

7 THE CHAIRMAN: The Chair rules that would be
8 out of order.

9 The pages will distribute the amendment marked
10 AP -- able-Paul --.AP. This will be Amendment 22. The
11 Clerk will read the amendment.

12 MR. QUILLEN: Amendment No. 22 to Committee
13 Recommendation S&E 2 by Delegate Weidemeyer. On Page 3,
14 Section 6, Uniform Conduct of Elections in line 1 after
15 the period add this new sentence:

16 "Such laws shall provide for the holding of
17 primary elections in years in which the President and
18 Vice President of the United States or electors for those
19 offices are elected at a date prior to the holding of
20 national party conventions providing sufficient time for
21 the holding of State party conventions."

THE CHAIRMAN: The amendment has been submitted

1 by Delegate Weidemeyer. Is there a second?

2 (The amendment was duly seconded.)

3 THE CHAIRMAN: The amendment having been
4 seconded, the Chair recognizes Delegate Weidemeyer to
5 speak to the amendment.

6 DELEGATE WEIDEMEYER: Mr. President and members
7 of the Convention, this amendment does not change any of
8 the wording of S&E-2. It merely adds a provision providing
9 for the time to be set by the Legislature for the holding
10 of primary elections in presidential years.

11 I think in behalf of both of our major
12 parties that it is necessary that the primary be held
13 early enough in presidential years so that the people, the
14 voters, in the Democratic primary and voters in the Republican
15 primary, will be enabled to elect their delegates to the
16 state convention and that that state convention may be
17 held sufficiently in time in advance of the national
18 convention.

19 Mr. President, I pause for a moment so that
20 the delegates may hear what I have to say about this
21 amendment because I think it is very important in the

1 preservation of our two-party system.

2 As it is now, you know the legislature puts
3 a primary in September. If they do not change the law
4 in the next session of the legislature, it will be
5 impossible for Marylanders of both parties to express their
6 preference in a presidential primary or to elect their
7 delegates to the state convention.

8 They have provided that the State Central
9 Committee of the parties can name the delegates to the
10 state convention. But I submit to you that that is not
11 the democratic process, the democratic process is for every
12 person in his party to express his preference not only
13 for the delegate to the state convention, but to express
14 his preference for a presidential candidate of his party.

15 If we put this amendment in, as I said, it does
16 not change any provision or alter S&E-2, it just adds
17 to it.

18 Someone said, well, this can be done by the
19 legislature, and I will grant you that, but in this
20 year unless the legislature does act, we are without our
21 presidential primary and for the election of the delegates

1 to the state convention and those delegates are very
2 important because those delegates to the state convention,
3 as you well know, name the delegates to the National
4 Convention.

5 If we in the Democratic Party and you in the
6 Republican Party are going to sit idly by and let some
7 leaders tell us what we want and what we shall have, then
8 I think we are losing our right as voters, we are losing
9 our party spirit, and it is something, my friends, that I
10 do not want to see go down the river. I do think it is
11 very important that we mandate in our Constitution that
12 in any presidential year the legislature shall set the
13 date of the primary sufficiently early in that year, that
14 we can elect our delegates to the state convention, that
15 the state convention can be held in ample time prior to the
16 calling of the National Convention.

17 Thank you very much. I hope you adopt this
18 amendment.

19 THE CHAIRMAN: Delegate Koss.

20 DELEGATE KOSS: Mr. Chairman, and members of
21 the Committee, while the committee did have some proposals

1 before it to set the primary at a specific date, we never
2 had any proposals that would set a primary, only one out
3 of every four years, at a special time.

4 However, I would like to point out that it
5 seems to me any action by this committee to put the
6 primary back into the Constitution would invalidate or
7 at least give great question to the action you took this
8 morning in terms of eliminating the application of pluralities

9 Third, I would like to suggest that this is, I
10 think Delegate Weidemeyer has to agree, within the
11 province of the legislature and properly so. I would
12 disagree with him that I give up my rights as a voter
13 if I do delegate this to the legislature. I would assume
14 a legislator is as responsive as we are to the wishes of
15 his constituents. Thank you.

16 THE CHAIRMAN: Any other delegate desire to
17 speak in favor?

18 Delegate Boileau.

19 DELEGATE BOILEAU: Mr. Chairman, fellow
20 delegates, in regard to the points that Delegate Weidemeyer
21 made, may I add one more point of information. In recent

1 weeks the Harris Poll has shown it seems the people of
2 the United States prefer to see Mr. Kennedy and Mr.
3 Rockefeller meet in November of '68 and yet it seems
4 the convention delegates supposedly will in fact nominate
5 two other gentlemen.

6 There is only one way we could really know how
7 the people of Maryland feel about this. That is the way
8 Delegate Weidemeyer suggested. I am in favor of the
9 amendment.

10 THE CHAIRMAN: Any delegate desire to speak in
11 opposition? Delegate Frederick.

12 DELEGATE FREDERICK: Really I have no personal
13 preference here except one. I haven't been able to figure
14 out how we can do what this amendment provides for without
15 having two elections in the spring. In May we are going
16 to have a statewide election concerning this new
17 constitution. Then we will have to have another statewide
18 election to provide the delegates to the Convention.
19 Unless we can come up with some way to combine the two,
20 it seems like the confusion, we would have to have two
21 general elections in May or possibly June because the

1 national convention is usually held in July. I would say
2 this does complicate it.

3 THE CHAIRMAN: Any other delegate desire to
4 speak in favor of the amendment? Delegate Winslow.

5 DELEGATE WINSLOW: Mr. Chairman, I should like
6 very much to speak in favor of this amendment because it
7 seems to me highly desirable that we have as voters a
8 chance to express our opinion with respect to candidates
9 for the presidency and what is even more to elect our
10 own delegates to party conventions rather than to have
11 them selected by central committees who have very little,
12 if any, responsibility to the voters.

13 I am sorry to have to put this into the
14 Constitution, I should much rather leave it to law, but
15 since we have an indication in the action of the General
16 Assembly that they don't want to do it by law, I see no
17 other way to do it. I shall, therefore, support the
18 proposal.

19 THE CHAIRMAN: Any delegate desire to speak in
20 opposition? Delegate Gallagher.

21 DELEGATE GALLAGHER: Two brief points, Mr.

1 Chairman. One is that this particular provision would run
2 afoul, it seems to me, of what we have already adopted
3 in the first report in the Legislative Branch in those
4 years in which the presidency occurs in the dicennial
5 year. That is to say in 1990, 2010, et cetera. The
6 difficulty would be this. That the legislature in that
7 particular year is required to enact or accept the
8 Commission plan for the redistricting of the state.

9 It must act within seventy days and then there
10 must be time to have the matter litigated in the event
11 any registered voter desires to challenge the plan adopted
12 by the General Assembly or the Commission plan.

13 If we are going to hold a primary election
14 prior to the National Conventions, which usually meet
15 in July or August, it seems to me we are going to be
16 cutting ourselves much too short in time to have the
17 legislative redistricting plans considered by the courts
18 and undoubtedly they will always be challenged at least
19 in the early occasions when redistricting is undertaken.
20 It would seem to me, therefore, that we present real
21 time difficulties for ourselves if we were to require this

1 primary before June or July.

2 A second point is this. Maryland, it seems
3 to me, has had a very sad experience with presidential
4 primaries. If all the candidates for the presidency were
5 to run in the Maryland presidential primary, that would
6 be fine and good but we know what happened. We have had
7 people come in here who really didn't turn out to be
8 bonafide candidates for the presidency. We have had to
9 dig up opposition to them, we have ripped up the
10 party of the State of Maryland so far as the Democratic
11 Party is concerned trying to oppose people who don't turn
12 out to be **genuine** contenders for the presidency anyhow.
13 When the legislature repealed the presidential preferential
14 primary, it did so, it seems to me with these things
15 in mind and as much as I would like to see the people of
16 Maryland have an opportunity to indicate whom they would
17 like to have nominated by their parties, it factually
18 and practically is a very difficult matter.

19 Because when you bind delegates to vote for
20 a candidate on the basis of who decided he wanted to run
21 in Maryland, you get the delegate going to the Convention

1 committed to voting for someone who may not at that point
2 of the game be a candidate at the National Convention.

3 It seems to me you nullify the power of the
4 delegation, both Republican and Democrat, at the
5 National Convention.

6 So as a practical matter, these primary
7 preferences have not worked, Maryland has been a prime
8 example of how miserably they have worked to the detriment
9 of the people. They have invited people in reality to
10 come into this state and we have been very unhappy
11 with their presence and we were only too glad to see them
12 go. I don't think this amendment will achieve the very
13 ideal goal it seeks.

14 THE CHAIRMAN: Any other delegate desire to
15 speak in favor of the amendment?

16 Delegate Willoner.

17 DELEGATE WILLONER: Mr. Chairman, I would like
18 to ask Delegate Gallagher if he will yield for a question.

19 THE CHAIRMAN: He cannot at this time. His time
20 has expired. I will give him the opportunity later. Any
21 other delegate desire to speak in favor? Any other

1 delegate desire to speak in opposition? Delegate Schneider.

2 DELEGATE SCHNEIDER: Yes, sir, I would like
3 to speak in opposition to this because I don't think
4 it does what its proponents say it does. It merely
5 requires that a primary election be held prior to the party
6 convention, it does not require that that primary election,
7 the delegates to state convention, be elected, so really
8 the legislature could provide that the delegates to state
9 convention are appointed by the Central Committee or
10 appointed by any other body and this would just require
11 that there be a primary election at which we could elect
12 our candidates for Congress or nominees for Congress and
13 at certain times the United States Senate.

14 It doesn't really do that.

15 I think further it is a legislative matter
16 and though if it did require that the delegates to
17 state convention be elected by the people or that the
18 people vote on the question of who they wanted to be
19 their nominee in the presidential election, it would have
20 merit. I think we should refrain from putting things
21 which are legislative in just on the basis that they are

1 good. I think even though the legislature might not do
2 it, we should write a basic structural document of govern-
3 ment here and not try to force our policies on the people
4 by way of our position down here as convention delegates
5 on the Constitutional Convention.

6 THE CHAIRMAN: Any other delegate desire to
7 speak in favor of the amendment? If not, Delegate
8 Gallagher, will you take the floor to yield to a question?

9 DELEGATE GALLAGHER: Yes.

10 THE CHAIRMAN: Delegate Willoner.

11 DELEGATE WILLONER: From your statement,
12 Delegate Gallagher, you indicated it would be virtually
13 impossible to have presidential primaries because of the
14 redistricting problems that -- did I understand?

15 THE CHAIRMAN: Delegate Gallagher.

16 DELEGATE GALLAGHER: In the years in which the
17 presidential election occurred when redistricting must
18 take place, the first occasion being 1990, it would be
19 very difficult to get the redistricting done in time to
20 have an effective primary because you have to know what
21 the districts are going to be before you can hold the

1 primary, assumedly you would want to have the candidate
2 for Senate and House running at the same time this
3 presidential primary was going on or at least in which
4 you were electing your delegates to the National
5 Convention, if that's the way you wanted to handle it.

6 THE CHAIRMAN: Delegate Willoner.

7 DELEGATE WILLONER: Would 1990 be the first
8 time this would occur?

9 THE CHAIRMAN: Delegate Gallagher.

10 DELEGATE GALLAGHER: That is correct.

11 THE CHAIRMAN: Very well. Delegate Marion.

12 DELEGATE MARION: Could I ask Delegate Gallagher
13 another question?

14 THE CHAIRMAN: Will Delegate Gallagher yield
15 to another question?

16 DELEGATE GALLAGHER: Yes, sir.

17 THE CHAIRMAN: Delegate Marion.

18 DELEGATE MARION: I don't follow this because
19 we don't elect a president in 1990, do we? We elect a
20 president in 1988 and 1992.

21 DELEGATE GALLAGHER: '68, '72, '76, '80.

It would be 1980 and 2000.

1 THE CHAIRMAN: A further question, Delegate
2 Marion?

3 DELEGATE MARION: In those years we are not
4 electing a General Assembly though.

5 THE CHAIRMAN: Delegate Gallagher.

6 DELEGATE GALLAGHER: In those years it would be
7 1972 and 1980, I think, is the requirement under the
8 Constitutional provision. We would be redistricting in
9 those years.

10 THE CHAIRMAN: Delegate Weidemeyer.

11 DELEGATE WEIDEMEYER: Mr. President and members
12 of the committee, I do want to say this. Delegate
13 Schneider seemed to indicate that this amendment did not
14 do what I wanted it to do. I do submit that the clear
15 wording of this amendment, if Delegate Schneider will
16 read it again, clearly provides to hold, for the holding
17 of a national party convention and providing sufficient
18 time for the holding of state party conventions. It is
19 to have it so that the State Conventions, primary
20 elections, can be held prior to a state convention and
21 that state convention can be held subsequent to the primary

1 prior to the national.

2 I think it is very clear. I think it is
3 unfortunate as Delegate Gallagher pointed out, very
4 unfortunate for the people in both parties if we have
5 to wait until 1980 or 1990 because of some possible conflict
6 way off that we be deprived all that time of expressing our
7 views for president. I think delegates from Maryland
8 should express the will of the people. In addition to
9 that if candidates for United States Senator and Congress
10 are nominated in an early primary in presidential years,
11 those candidates will have an opportunity to go then to
12 the state convention as nominated candidates and get the
13 feel of their party pulse. They will have an opportunity
14 to go to the national convention and there get the feel of
15 their party movement.

16 I think it is a healthy political thing for
17 both parties to conduct our primary election at an early
18 time in presidential years and keep it on a sound democratic
19 basis.

20 THE CHAIRMAN: Are you ready for the question?

21 The question arises on the adoption of amendment

22. The Clerk will ring the quorum bell.

The question arises on the adoption of amendment

22. A vote Aye is a vote in favor of the amendment.

A vote no is a vote against. Cast your votes.

(Whereupon a roll call vote was taken.)

THE CHAIRMAN: Has every delegate voted? Does any delegate desire to change his vote? The Clerk will record the vote.

There being 40 votes in the affirmative and 72 in the negative, the motion is lost, the amendment is rejected.

The Chair understands that Delegate Gallagher does not desire to offer his amendment AU, Delegate Mudd, AQ, Delegate Fox, AW, Delegate Cardin, W, Delegate Hardwicke, AG, Delegate Weidemeyer, AM. He is advised no other amendments -- The Chair hears none. The question arises on the approval of Committee Recommendation S&E-2 as amended. Are you ready for the question? The Clerk will ring the quorum bell. The question arises on the approval of Committee Recommendation S&E-2 as amended. A vote Aye is a vote in favor of the amendment, of the recommendation as amended. A vote no is a vote against. Cast

1 your votes.

2 (Whereupon a roll call vote was taken.)

3 THE CHAIRMAN: Has every delegate voted?
4 Does any delegate desire to change his vote? The Clerk
5 will record the vote.

6 There being 110 votes in the affirmative
7 and nine in the negative, Committee Recommendation S&E-2,
8 as amended, is approved.

9 On behalf of the entire Committee of the Whole,
10 the Chair would like very much to extend its very sincere
11 thanks and that of the committee to Delegate Koss as
12 Chairman of the committee and Delegate Schloeder as
13 vice chairman and to the staff advisors. (Applause.)

14 The Chair cannot help commenting that Delegate
15 Koss has very ably demonstrated once again that women are
16 indeed equal to men. (Applause.)

17 The next item on the agenda is consideration
18 of Committee Recommendation R&P-1. The Chair recognizes
19 Delegate Kiefer to present the committee recommendation.

20 (Whereupon the Honorable James Clark resumed
21

1 the Chair.)

2 DELEGATE CLARK: Delegate Kiefer, you have
3 the floor, sir.

4 DELEGATE KIEFER: Mr. Chairman, ladies and
5 gentlemen of the committee, we have been waiting for
6 two or three days or more for this opportunity. I am
7 beginning to feel like the bride that got left at the
8 church and frankly, I got to the point now I am not so
9 sure I want to get married. In any event, each of my
10 predecessors here has remarked and spoken of the honor
11 they have in presenting the reports of the committees
12 they represent. I too feel this is an honor but when I
13 see what has happened to some of my predecessors, I am not
14 so sure I want this kind of honor.

15 Nevertheless I will present this report.
16 But before I do so, I want to do something that has not
17 been done by other committees. I would like you to know
18 this is a team, a team effort. I would like you to see
19 and meet the members of this committee. I know you know
20 them but I am going to call their names and ask that they
21 stand as I call their names so you can see who are the

1 people who have done this work. Delegate Beachley,
2 Delegate Bennett, Delegate Bothe, Delegate Burgress,
3 Delegate Child, Delegate Dabrowski, Delegate Groh,
4 Delegate Hardwicke, Delegate Hostetter, Delegate Kosakowski,
5 Delegate Mitchell, Delegate Murray, Delegate Price,
6 Delegate Price is ill, he went home, I am not sure whether
7 he has a touch of grippe/^{or} whether he is suffering from
8 "suffritis" but he has had it for the day, Delegate
9 Taylor, Delegate Weidemeyer, Delegate Willoner.

10 Will all of you stand up so you can see what
11 the group looks like, just for a moment, please. (Applause.)

12 I want to say to you, ladies and gentlemen,
13 when we get to the question period and discussions and
14 arguments, I will call on this committee very freely.
15 I do not claim to be an expert. Neither are they because
16 we long since decided an expert by definition is any
17 s.o.b. more than thirty miles from home. I admit to the
18 first but I venture I am only twenty-six miles from home
19 and the rest of the committee do not fit the first
20 category.

21 We are in a brand new subject. We are not in

1 the subject of putting together piece by piece a form of
2 government. We are in that part of the Constitution-
3 making which has to do with a very, very important aspect,
4 namely, liberty, personal freedoms. That is the work
5 of this committee.

6 We will present this report in three, easy
7 parts, none of which will be very learned. The first is a
8 general background of what a bill of rights is all about
9 and how we face the present situation in view of our
10 present social and economic conditions and particularly
11 in view of certain Supreme Court decisions that have been
12 recently enunciated.

13 Ladies and gentlemen, I have no intention of
14 trying to make constitutional lawyers out of every one of
15 you for two reasons. First, after two agonizing months,
16 I have not been able to make one out of myself and, second,
17 it has been amply demonstrated we have all the constitutional
18 lawyers we need.

19 I also wanted to give you just a brief view
20 of what this committee has done, how it met the problem,
21 the way it has solved or at least come up with the recommen-

1 dations we have for you. Finally very briefly I will
2 touch upon the actual recommendations. I recognize,
3 ladies and gentlemen, that as the minister said, you
4 don't get any converts after the first 20 minutes. I will
5 try to keep this as short as possible.

6 But in any understanding of a Constitution-
7 making process in this country or in any other state of
8 the Eastern Seaboard, we must realize, first of all, that
9 we were originally English colonies and, therefore, our
10 history and our outlook goes back to the English Common
11 Law and to the experience of the English people in the
12 course of five or six hundred years of battling with
13 absolute monarchism, with unruly parliaments and with
14 supreme church bodies who governed and ruled people's
15 lives through government or outside of government.

16 The first bill of rights that was developed in
17 this country really was the Virginia Bill of Rights, which
18 was formulated by one George Mason and enunciated in
19 June of 1776, prior to the Declaration of Independence.
20 From this stemmed many of the articles or concepts we find
21 in our own bill of rights and in those of other states.

1 The present Constitution or rather the present
2 bill of rights can be traced to this very group of
3 concepts by George Mason. We must look to our own original
4 constitution in 1776 and remembering that this was written
5 by a group of people just a month or two after the
6 Declaration of Independence when the country was at
7 war, when there was very little communication, primarily
8 a rural country side, where people were aroused by what
9 had happened to them by soldiers, by English oppression,
10 by lack of representation in Parliament and so forth. If
11 we look at the actual preamble of the Constitution of 1776,
12 we can see the attitude and what the people at that time
13 were concerned with. It says, "The Parliament of Great
14 Britain, by a declaratory Act, having assumed a right to
15 make laws to bind the colonies in all cases
16 whatsoever, and, in pursuance of such claim, endeavored,
17 by force of arms, to subjugate the united colonies to an
18 unconditional submission to their will and power, and having
19 at length constrained them to declare themselves independent
20 states , and to assume government under the authority of
21 the people -- therefore, we and so forth. We were under

1 a system of excitement and revolution. In 1867 when the
2 new Constitution or the third constitution or fourth
3 constitution was written, the civil war had just ended
4 and there had been an experience of violence, troops
5 were located in Baltimore to keep the city in subjection.
6 The writ of habeas corpus had been suspended, soldiers
7 patrolled election booths, there were no free elections,
8 judges had been imprisoned months at a time and again the
9 billof rights and the constitution reflected that situation.

10 Today we have a different situation but one
11 that perhaps is equally exciting in many ways though not
12 quite as spectacular. We have racial tensions, ghettos,
13 war on poverty, social upheavals, hippies, the rest of it.
14 Most important, there have been a series of Supreme
15 Court decisions which have brought to bear on state
16 action many of the concepts of the Federal Constitution.
17 We cannot ignore this when we consider the bill or rights
18 we are concerned with here today.

19 In matters involving accused in racial dis-
20 crimination matters involving state-church relationships,
21 freedom of the press, freedom of religion, et cetera.

1 For a very quick moment, let's look at this Federal or
2 United States Constitution. As you know, it was written
3 in 1787 without a bill of rights because it was thought
4 that such a bill of rights was not necessary. However,
5 such a great opposition arose to it that it became almost
6 an issue and it was agreed informally by the various
7 people of importance that there would be a bill of rights
8 added to the Federal Constitution. This was done and
9 became, as you know, the first ten amendments to the
10 Constitution.
11
12
13
14
15
16
17
18
19
20
21

1 Now, we talk about a Constitution doing two
2 things. It frames a form of government by which the
3 people set up an orderly manner of government for them-
4 selves. It also protects certain basic freedoms, and
5 these are intertwined efforts.

6 For instance, the United States Constitution
7 had six or seven built-in liberties or guarantees of
8 freedom that we take for granted but which were not taken
9 for granted at that time.

10 First of all, it is a written document. As
11 you perhaps well know, the English Government, the
12 English Constitution is unwritten. The great Magna
13 Carta, which was a compact between King John and a number
14 of his subjects with respect to certain freedoms and
15 certain rights, has been reenacted some 32 times over
16 the past six or seven hundred years since it was first
17 written, so we have a written document.

18 The U. S. Constitution declares and states that
19 it is the supreme law.

20 It provides for an independent Judiciary.

21 It provides for specific powers and prerogatives

1 of the Legislature.

2 It provides for the election of the Executive.

3 It provides for the separation into three
4 distinct branches with controls, and checks and balances
5 between the Executive, Judiciary and Legislative.

6 It provides for amendments.

7 Now, the Bill of Rights that was written for
8 the United States Constitution did not apply to the states.
9 The guarantee of freedom set forth in the Federal Bill
10 of Rights was early held to be applicable only to acts of
11 Congress. Until we came to the end of the Civil War,
12 and at the end of the Civil War, among the amendments that
13 were added to set up and protect the newly-freed slaves
14 was the 14th Amendment.

15 Let me just read to you very briefly that part
16 of it which has become so important in our lives today.

17 "All persons born or naturalized in the
18 United States, and subject to the jurisdiction thereof,
19 are citizens of the United States and of the states
20 wherein they reside. No state shall make or enforce any
21 law which shall abridge the privileges or immunities of

1 citizens of the United States; nor shall any state
2 deprive any person of life, liberty, or property, without
3 due process of law; nor deny to any person within its
4 jurisdiction the equal protection of the laws."

5 What does that mean?

6 Well, the drafters -- John A. Bingham of Ohio
7 and Senator Jacob M. Howard of Michigan -- thought that it
8 had two important meanings.

9 First, it meant that it projected and incorpor-
10 ated the first eight Amendments or nine Amendments of
11 the U. S. Constitution to states, the freedom guaranteed
12 in those amendments were carried over to and became
13 obligatory to state action.

14 The second thing that this amendment was supposed
15 to have meant was, in the words of Senator Howard, "It will,
16 if adopted by the states, forever disable every one
17 of them from passing laws trenching upon those fundamental
18 rights and privileges which pertain to the citizens of the
19 United States, and to all persons who happen to be within
20 their jurisdiction.

21 It establishes the equality before the law and

1 gives to the humblest, the poorest, the most despised
2 of the race, the same right and the same protection before
3 the law as it gives to the most powerful, the most wealthy
4 or the most haughty.

5 Well, it is history, and I am sure you are all
6 aware of it, that a series of Supreme Court decisions
7 greatly curtailed the effect of this amendment. In the
8 Slaughter House cases, and in Plessy V. Ferguson, which
9 was the famous case that permitted equal but separate
10 rights, and Hurtado V. California, which held that the
11 right to grand jury action was not a matter of due
12 process, and in a dozen other particular and peculiar
13 decisions the great effect of the 14th Amendment was
14 largely ignored.

15 It wasn't until modern times that the 14th
16 Amendment, a great slumbering giant, really came into
17 its own, and we now find that it is now one of the most
18 important influences in our lives with respect to personal,
19 individual freedoms and rights.

20 Back in '25, the Supreme Court stated that
21 the First Amendment guaranteeing freedom of press and

1 speech, was a right that was now recognized as applying
2 to state action as well as to Federal action, and with
3 that story of that case, the Court has consistently
4 enlarged this to the point where all aspects of the
5 First Amendment now are applicable to states, and this
6 includes the freedom of speech and press, the right of
7 assembly, freedom of religion, and separation of church
8 and state in the establishment clause with respect to
9 religion.

10 There is also applied the provisions of the
11 Fourth Amendment with respect to freedom from unreasonable
12 search and seizure, and it has gone to the 6th Amendment,
13 right to fair, speedy and public trials, and when the
14 U. S. Supreme Court thinks it is necessary a myriad of
15 aspects with respect to criminal procedures.

16 It has also applied the 8th Amendment which is
17 a prohibition against cruel and unusual punishment, but
18 it has not gone to all of the eight amendments. It has
19 specifically refused to hold certain parts of the Fifth
20 Amendment as being applicable to state action, and it has
21 specifically provided that such things as trial by jury

1 in both civil and criminal cases are a matter of state
2 action and not a matter that the 14th Amendment extends
3 to.

4 There may come a time, and I suspect there will
5 come a time when these, too, will be brought under the
6 umbrella of the 14th Amendment and applied to all state
7 action.

8 In the areas of segregation and racial discrim-
9 ination, it has been broadened until people feel it covers
10 completely any questions with respect to racial dis-
11 crimination in the public area.

12 Now, on what basis has the court done this?
13 I won't try to get into this except to say perhaps,
14 in the words of Justice Frankfurter, that we must consider
15 each situation to see if it "offends those canons of
16 decency and fairness which express the notions of justice
17 of English-speaking people."

18 Ladies and gentlemen, you may not like this,
19 but this is the life we live today, and the Supreme Court's
20 rulings with respect to these areas are controlling
21 upon this state and every state, and consequently the

1 thoughts and actions we take with respect to framing
2 of personal rights must not ignore the effect of the
3 Supreme Court rulings in connection with the application
4 of the United States Bill of Rights to our own state
5 situation.

6 As a matter of fact, in the last year, or within
7 the last year, more than 25 cases have been decided
8 by the Supreme Court on the basis of the application
9 of the 14th Amendment into such areas as freedom of
10 speech, freedom of the press, criminal application,
11 segregation, and freedom of religion.

12 The very latest, very recent one was the
13 voiding of the Virginia anti-miscegenation clause, and
14 of course that applies to Maryland, too.

15 Also, just the other day you may have seen
16 in the newspaper where the Court has agreed to hear
17 a case involving open housing in a suburban area, I think
18 it is in Missouri.

19 In any event, we are in an era and an area of
20 constant change, but where the same fundamental basic
21 concepts of personal freedom still exist. Therefore,

1 what we are presenting to you, ladies and gentlemen,
2 I think you will find are the same stalwart statements
3 of personal rights, personal liberties that have grown,
4 or rather have maintained through the years and have
5 been not diminished but expanded by actions of the
6 Supreme Court.

7 Now, with that very brief and certainly
8 unlearned discussion, I want to tell you just a little
9 bit about this Committee. I am frank to say that when we
10 first gathered -- and you saw what a fine bunch of
11 people they are, and they really are -- they were
12 strangers who sat down and looked at each other, and I am
13 not at all sure that we weren't about like a bunch of
14 male cats out in the alley during mating season, but we
15 soon got to the point where after discussion, hearings
16 and debates we realized that we were a lot closer together
17 in much of our thinking than we had first thought we
18 might be.

19 We received, as you well know, 123 proposals.
20 I guess we were the disposal of the proposals, and we
21 had them.

1 We talked to and heard from more than 100
2 witnesses ranging everywhere from constitutional law
3 experts down to people who were dedicated espousers of
4 some particular peculiar idea. We had constitutional
5 lawyers, so I want you to know, who were experts on the
6 14th Amendment or on the First Amendment. These fellows
7 are like doctors, you know -- they specialize not only
8 on the Bill of Rights but on certain aspects of the Bill
9 of Rights, and this is why none of us on this Committee
10 can hope or claim to have any great expertise.

11 We have books and libraries on this subject.
12 We can best simply give you these concepts and these
13 pictures, and I hope that when we finish you will have
14 caught the spirit that I think permeated this Committee,
15 and adopt these things without too much difficulty.

16 I hope that anyhow, by this time, the
17 compulsive amenders have worn themselves out and that you
18 will find little in this that you really need to do
19 much doctoring with.

20 Now, having heard all these proposals, having
21 seen and talked to these witnesses and having debated among

1 ourselves, we came to several basic concepts, and these
2 I hope you will bear in mind when you consider and go
3 over the Recommendation No. 1 of this Committee.

4 The first is set forth in the memoranda, and
5 it states very well our concept that the declaration of
6 rights should reserve and declare those personal rights
7 of individuals which no governmental official, agency,
8 instrumentality or political subdivision, no transient
9 majority may transgress, abridge, or diminish.

10 Now, if you will measure these sections in
11 Recommendation No. 1 against that statement, ladies and
12 gentlemen, you will have caught the philosophy of what
13 we are talking about. We have not brought to you exhortatory
14 wishes and aims, we have brought to you basic rights that
15 shall not be taken away. These are not things to be
16 added to somebody's personal living; these are things
17 that you already have and no government can take them from
18 you, and that is what the Bill of Rights means.

19 Now, the language that we have used we
20 have tried to make timeless rather than timely. This
21 Constitution we hope is being written for a long time to

1 come. It is therefore not a matter that we think should
2 concern people for only the next five years but shall be
3 equally as applicable a hundred years from now as they were
4 two hundred years ago when the first basic concepts were
5 enunciated, and because of this, they are simple, terse
6 statements which are capable of being judicially inter-
7 preted as conditions change over the years.

8 As an example, in the question in the case
9 of matters involving cruel and unusual punishment,
10 what was cruel and unusual punishment two hundred years
11 ago may not be cruel and unusual punishment today, but
12 it most likely would be the other way around -- things
13 that were countenanced two hundred or even one hundred
14 years ago may today, by our concepts, be cruel and unusual
15 punishment, so if we state the concept and leave it to the
16 courts and to the Legislature to implement these great
17 basic truths of freedom, I think we will have provided a
18 far greater service than if we try to spell them all
19 out in detail.

20 Finally, ladies and gentlemen, regardless of
21 what we say or what we think, these declarations of rights,

1 these personal freedoms must reach to and include everyone,
2 white, black, brown, yellow, male and female, urban,
3 suburban, rural. There can be no group or no person
4 who can say that these rights don't reach up to and meet
5 them or are too low below them. In other words, they
6 apply to everybody.

7 (At this point, the Honorable H. Vernon Eney,
8 Chairman of the Committee of the Whole, resumed the Chair.)

9 DELEGATE KIEFER: Now, I want very briefly
10 and very quickly to go over these recommendations with
11 you. I am not going to repeat the material that is in
12 the memoranda. I hope that you have read them and you
13 will have a chance to read them tonight if you haven't.

14 I do want to make some very brief comments
15 on several of them. I will skip over others very quickly.

16 We incidentally numbered these Sections 1, 2,
17 3 and 4, because it seemed to us that the Style Drafting
18 Committee may want to arrange whatever system of numbering
19 there will be.

20 We just felt they were a little bit more digni-
21 fied by referring to them as Section 1, rather than

1 Section 101, or something of that sort.

2 Nevertheless, Section 1, Freedom of Expression,
3 (a), Right of Assembly:

4 "The people shall have the right peaceably to
5 assemble and to petition the government for a redress of
6 grievances.

7 This is the first amendment, and it is also
8 Article 13 of our own declaration of rights. I don't
9 think there is any question about it. I don't know
10 that there is any need to elaborate.

11 Freedom of the press and freedom of speech shall
12 not be abridged, each person remaining responsible for abuse
13 of these rights.

14 This is the second part of this basic freedom.

15 Ladies and gentlemen, this is a living freedom.
16 This is constantly subject to interpretation and
17 implementation by courts. It is a jealously guarded
18 freedom and one which we can cherish.

19 It was not always so. Back in 1798, the
20 famous sedition acts made it a crime to speak against
21 the government, and in World War I we had sedition acts

1 that were almost as bad, but at this point in our
2 history the rights of the freedom of press and freedom
3 of speech have been pretty clearly enunciated, and even
4 as late as last week the Supreme Court has again ruled
5 upon and emphasized these rights.

6 Section 2, freedom of religion. This is a
7 section I shall dwell on just briefly, but I want to
8 read it to you as we have recommended it to you:

9 "No law shall be made respecting an establishment
10 of religion or prohibiting the free exercise thereof."

11 Ladies and gentlemen, on your sheets, or on the
12 recommendation, the word "or" appears as "nor", and I have
13 anticipated I am sure a half a dozen questions by some of
14 the people of this Convention when I tell you that was
15 a misprint and the word should be "or", so will you please
16 make that change in Section 2?

17 The first amendment language is exactly that,
18 or as close to that as we can get it.

19 The present Maryland Constitution covers the
20 freedom of religion in four sections, 36, 37, 38 and 39.
21 However, these have been seriously affected by several

1 recent decisions so that there is little or no meaning
2 to Sections 36 and 37 when it comes to the matters
3 involving holding of office and questions of qualification
4 as jurors.

5 Now, I won't go into those, but the only
6 effect left in the law with respect to this area that is
7 important to us is the language "nor ought any person be
8 compelled to frequent, maintain or contribute, unless on
9 contract, to maintain any place of worship or ministry."

10 Ladies and gentlemen, there are two aspects
11 to this freedom. One is that there shall be no law
12 prohibiting the free exercise of religion, and this has
13 been clearly and carefully stated in many of these cases,
14 but the second part, the one that I think may trouble
15 many people, is the phrase "no law shall be made respecting
16 an establishment of religion."

17 This is the clause that relates to the separation
18 of church and state. This is an area of strong emotional
19 debate.

20 The Committee was unanimously in favor of a
21 complete separation of church and state, as can be stated,

1 and it should be stated clearly and unequivocally how to
2 do it.

3 We considered the language of the Draft
4 Committee and found that it was adequate, but we felt that
5 the language of the First Amendment decidedly stated this
6 concept of separation of church and state as effectively
7 as it could be.

8 What does the First Amendment mean?

9 I should like to read to you a very famous and
10 brief excerpt from a case called *Everson V. Board of*
11 *County Commissioners*. This is the statement with respect
12 to what the First Amendment means:

13 "The establishment of religion clause of the
14 First Amendment means at least this: Neither a state
15 nor the Federal Government can set up a church. Neither
16 can pass laws which aid one religion, aid all religions,
17 or prefer one religion over another. Neither can
18 force nor influence a person to go to or remain away
19 from church against his will or force him to profess a
20 belief or disbelief in any religion. No person can
21 be punished for entertaining or professing religious

1 beliefs or disbeliefs, for church attendance or non-
2 attendance. No tax in any amount, large or small, can
3 be levied to support any religious activities or institutions,
4 whatever they may be called, or whatever form they may
5 adopt to teach or practice religion. Neither a state
6 nor the Federal Government can openly or secretly participate
7 in the affairs of any religious organizations or groups
8 and vice versa. In the words of Jefferson, the clause
9 against establishment of religion by law was intended to
10 erect a wall of separation between church and state."

11 This establishes what the First Amendment means.

12 Now, what does it mean in Maryland? It means
13 exactly that, and we have a very famous case which I am sure
14 you have heard of, the Horace Mann case cited in June of
15 1966 respecting this very matter. That case involved
16 four separate statutes of the Maryland Legislature granting
17 a total of two and a half million dollars to four colleges,
18 \$500,000 to Hood College to build a dormitory and classroom
19 building, \$500,000 to Western Maryland College for a
20 science wing and a dining hall, \$750,000 to Notre Dame
21 College for a science building, and \$750,000 to St. Joseph

1 College in Emmittsburg for a science building.

2 Action was brought to have these grants
3 invalidated on the basis that they violated both the
4 Maryland Constitution and the First Amendment. The Court
5 held that they violated the First Amendment and were
6 therefore unconstitutional.

7 THE CHAIRMAN: Delegate Kiefer, do you have
8 any idea how much longer your principal presentation
9 would take?

10 DELEGATE KIEFER: If you will give me about
11 five or ten minutes at the most.

12 THE CHAIRMAN: Very well.

13 DELEGATE KIEFER: The Court held that the
14 First Amendment was applicable, that these grants were
15 unconstitutional. It went on to hold that they
16 would not have been unconstitutional under the Maryland
17 Act, and in so stating, the Court said this, in addition
18 to the language that I read to you from the Everson case
19 it stated further language which was in effect saying
20 the same thing only even stronger:

21 "A state can't contribute tax-raised funds

1 to the support of an institution which teaches the tenets
2 or faith of any church."

3 Now, we have heard, ladies and gentlemen,
4 testimony here -- as a matter of fact, we had to hold
5 it in this very room to get all the people who wanted to
6 talk and all the witnesses who wanted to hear.

7 This included the Maryland Council of Churches,
8 the Archdiocese of Baltimore of the Roman Catholic
9 Church, Baltimore Jewish Council, Christian Life Committee
10 of the Baptist Convention of Maryland, and various other
11 groups.

12 They were all uniform in their agreement that
13 the First Amendment was an effective barrier between church
14 and state.

15 We have adopted it, after much debate and much
16 consideration in our Committee. Ladies and gentlemen,
17 it was adopted 16 to 1.

18 The next area is Section 3, right to due process
19 and equal protection.

20 I am not going to cover that in full. It is
21 the 14th Amendment. We think that it does what we believe

1 it should do. It establishes that, "No person shall be
2 deprived of life, liberty, or property without due process
3 of law; nor be denied the equal protection of the laws."

4 I might say to you, ladies and gentlemen,
5 by way of passing, that this 14th Amendment was not
6 adopted by the State of Maryland at the time that the other
7 states did, it was not until 1959 when our own Senator
8 William James introduced a joint Senate Resolution which
9 was finally passed on April 2, 1959, and in the House
10 on April 3 by unanimous vote and signed by Governor Tawes
11 on April 28, 1959, so it is here to stay.

12 This we conceive is an absolute prohibition
13 against discrimination with respect to the public areas
14 and that it is a timeless statement that does the work
15 that we want it to do.

16 I shall pass over very quickly -- in view of
17 the time element -- to search and seizure.

18 We have added in Section 4 two points that
19 will be of interest to you. One is we have provided
20 for the protection against unreasonable interceptions
21 of communications, and other invasions of privacy.

1 Now, these are areas that I suspect will evoke
2 questions and which we are prepared to answer, but in this
3 day and age of an increasing probing into the areas of
4 privacy and stifling the privacy of individuals by
5 bureaucratic forms of government, we felt that this was
6 a very important provision to place in our Bill of Rights.

7 The right of privacy has always existed. It
8 is a right that we have. Nevertheless, it is a right
9 that we think should now be stated.

10 Section 5 deals with the rights of the accused,
11 and I must just say that these follow pretty closely the
12 Sixth Amendment of the Federal Constitution and our own
13 Article XXI.

14 We will find that in most of these areas the
15 Maryland Declaration of Rights will cover these rights
16 though they will not cover them as clear-cut and succinctly
17 as we have stated them here.

18 Now, in this area I have only one comment to
19 make that is of importance, that we considered very care-
20 fully whether there should be a continuation of the
21 unanimous verdict of juries in criminal cases, and we

1 decided without any dissent that there should be, and also
2 that there should be no diminution in the size of the
3 jury -- 12 jurors.

4 Now, we have added a second section that is
5 new in the Constitution. It says this:

6 "An accused, except in cases punishable by
7 death or life imprisonment, shall be entitled to release
8 pending trial conditioned only upon such bail or other
9 terms as are reasonably necessary to secure his appearance
10 before the Court."

11 This is the law as it is supposed to exist,
12 in theory, though it is not always in practice. I
13 will make only this comment about this. We have submitted
14 this to Mr. Charles Moylan of the States Attorney of Balti-
15 more City and to Chief Judge Dulaney Foster of Baltimore
16 City, and both of them have found there is no difficulty
17 with respect to its terminology.

18 Finally, in Section 6 we have the right
19 not to incriminate one's self, which is a basic concept
20 that has been in the Maryland Declaration of Rights and
21 is in the Fifth Amendment of the Federal Constitution.

1 We have added a second freedom or personal
2 liberty:

3 "No person shall be twice put in jeopardy
4 of criminal punishment for the same offense."

5 This is in the Federal Constitution and has never
6 been in the Maryland Constitution, but we think it is a
7 personal right that should be clearly enunciated. There
8 have been cases involving double jeopardy, but it has
9 been based upon the basic English common law.

10 In Section 7, Jury Trials in Civil Cases,
11 we have made several changes. We have left to the
12 Legislature to determine the jurisdictional amounts
13 rather than to try to set flat sums as to the juris-
14 dictional amount -- \$5.00 as set in the present
15 Constitution is obviously at this point of no importance.
16 We have also retained the fact that in civil cases
17 there shall be unanimous jury decisions, but we have
18 permitted the Legislature to reduce the size of civil
19 juries to not less than six if they should so decide
20 that it is desirable.

21 Under unusual punishments there have been no

1 changes. The clause, "no conviction of crime shall
2 work corruption of blood or forfeiture of estate", is
3 an ancient and honorable right which permits a person's
4 family to be protected against the sins that a person
5 himself may have committed.

6 Now we come to Section 9, very quickly,
7 Limitations on State Action, and there are three parts --
8 "(A) the right to the writ of habeas corpus and
9 the provisions of this Constitution shall not be suspended."

10 This follows pretty closely two Declarations
11 of Rights, or rather it follows first of all Article 3
12 of Section 55 of the Maryland Constitution which provides
13 that the General Assembly shall pass no law suspending
14 the privilege of the writ of habeas corpus and also
15 follows Article 44 which provides that the Constitution
16 shall remain in force in time of war and peace.

17 We will go into this further when discussion
18 may develop on it.

19 There is one very important area wherein we have
20 made changes, and that is in the case of eminent domain:

21 "Private property shall not be taken or damaged

1 for public use or purposes without just compensation."

2 Under the present Constitution, we have found
3 limitations which we believe can be clearly and more
4 succinctly stated.

5 Let me say first of all that eminent domain
6 is a prerogative of the Government, of the sovereignty,
7 and it doesn't take a Constitutional grant to give it.
8 What we are doing is providing prohibitions against the
9 sovereign's right of eminent domain. We have done this in
10 several ways.

11 One, we have increased -- first of all, we
12 have stated that private property shall not be taken
13 or damaged. As part of this, there has to be a physical
14 intrusion on the property before you can recover damages.

15 Secondly, we added the word "purposes" to
16 allow for the taking of public property without having
17 it be spelled out in the Constitution for purposes such
18 as urban renewal, harbor development, and so forth.

19 Again, when we get more fully into discussion
20 we will cover these more completely.

21 Finally we have eliminated the provisions with

1 respect to the necessity or rather the prohibition against
2 the so-called quick take which would not allow the
3 Government to come in and take your property until
4 the price has been agreed upon but, as you know, there
5 have been a number of exceptions spelled out in detail
6 in the Constitution, and we hope that we have eliminated
7 that.

8 This is something that ought to be and easily
9 can be taken care of by uniform legislative action.

10 Hurrying on, because I will get this all done
11 very quickly, in the Section 9, C, bill of attainder,
12 "No bill of attainder or ex post facto law or law impairing
13 the obligation of contracts shall be enacted."

14 These simply reiterate stated prohibitions
15 against freedom that are set forth in both our own
16 Constitution and in the Federal Constitution, with this
17 exception. There is nothing in the present Maryland
18 Constitution with respect to a law impairing the
19 obligation of contracts, but there is in the Federal
20 Constitution a prohibition against states enacting such
21 a law, so in effect we have already had this.

1 In Section 10 there is the reserved rights
2 which says, "The enumeration of rights in this Constitution
3 shall not be construed to impair, disparage or deny others
4 retained by the people."

5 As Exhibit C to this report you will find an
6 article by Delegate Hardwicke in which he expounds quite
7 considerably on this little-known and little-used amend-
8 ment or declaration of rights but one which may become
9 increasingly important in the future.

10 Finally, ladies and gentlemen, last but not
11 least, having covered these articles very quickly and very
12 briefly, I would now like to comment only momentarily
13 on the very first part of any Constitution, which I bring
14 up last of all, the Preamble. The Preamble that we
15 recommend to you says this:

16 "We, the People of the State of Maryland,
17 grateful to Almighty God for our civil and religious
18 freedom; recognizing that all political power originates
19 in the people and that all government is instituted to
20 secure their right to life, liberty, and pursuit of
21 happiness; and acknowledging our duty and responsibility

1 to posterity, do establish and ordain this Constitution."

2 This was the result of a great deal of work
3 and effort, and I frankly realize that if each of you had
4 undertaken to write a Preamble each of you would come up
5 with your own. However, let me just call these few
6 things to your attention.

7 It starts out, "We, the People" because
8 we, the people, are the ones who are making this Con-
9 stitution.

10 It says "grateful for our civil and religious
11 freedom". This means all persons, we, the people,
12 grateful for civil and religious freedoms to all of us.
13 This is not just a part-way preamble.

14 It establishes and recognizes that all
15 political power is in the people -- recognizing that
16 all political power originates in the people and that
17 all government is instituted to secure their right to
18 life, liberty, and the pursuit of happiness.

19 This government we are establishing then
20 is one to secure the right of life, liberty and the
21 pursuit of happiness, and then we acknowledge that we

1 have a duty and a responsibility to posterity, not just
2 to write this thing for the day after tomorrow but for
3 a long time to come, and finally I come to the very last
4 thing, ladies and gentlemen, grateful to God -- grateful
5 to God.

6 This is not just an idle phrase, because this
7 country was rasied in religious toleration and in reliance
8 on a divine power.

9 I suppose we have received more letters
10 requesting that we retain God in the Constitution.

11 Ladies and gentlemen, I have tried to formulate
12 words that can describe what I really believe we are talk-
13 ing about when we talk about God as our guide in these
14 matters and to whom we are grateful, and I would just
15 like to close very briefly on the words of a famous hymn
16 that I think is known to most of us, and I believe this
17 really expresses what we are saying when we state in this
18 Preamble our gratitude to God.

19 "God of our fathers, whose almighty hand
20 Leads forth in beauty all the starry band
21 Of shining worlds in splendor through the skies,

1 "Our grateful songs before Thy throne arise.

2
3 "Thy love divine hath led us in the past;

4 "In this free land of thee our lot is cast;

5 "Be Thou our Ruler, guardian, guide and Stay;

6 "Thy word our law, Thy paths our chosen way."

7 Ladies and gentlemen, this is what the
8 Constitution is all about. You can write all kinds of
9 forms of government, but if you don't preserve the rights
10 of the individual, if you do not recognize the source
11 of our divine power in building this great state and
12 this great country, we have missed the boat.

13 We have tried to present a restatement for
14 you, terse and brief, setting forth these rights. If
15 we have failed, we are sorry. If we have succeeded,
16 then we believe maybe we have helped contribute something
17 towards a monument which I believe this Convention is
18 going to be proud of, the state is going to be proud of,
19 and so is the nation.

20 THE CHAIRMAN: Thank you.

21 If the questioning of the Committee Chairman

1 is likely to be brief, the Chair would like to conclude it.
2 If it will be extensive, I would like to postpone it
3 until tomorrow.

4 Would the Delegates who have any intention of
5 asking questions please now indicate so to the Chair
6 or stand?

7 The Chair recognizes Delegate Powers.

8 DELEGATE POWERS: Mr. Chairman, I move the
9 Committee of the Whole rise and report its approval of
10 the Committee Recommendation S&E-2 with amendments
11 and further report that it has not concluded its consider-
12 ation of Committee Recommendation RP-1.

13 THE CHAIRMAN: The Clerk will please ring
14 the quorum bell.

15 Delegate Clagett.

16 DELEGATE CLAGETT: A point of personal
17 privilege.

18 We simply wanted to make your day a little
19 less long.

20 THE CHAIRMAN: Thank you.

21 All in favor of the motion signify by saying

1 Aye. Contrary, No.

2 The Ayes have it, it is so ordered.

3 (The mace was replaced by the Sergeant at Arms.)

4 (Whereupon, at 6:20 p.m., the Committee of the
5 Whole rose, and the Convention reconvened.)

6 THE PRESIDENT: The convention will please
7 come to order.

8 On behalf of the Committee of the Whole, the
9 Chair reports that it has had under consideration
10 Committee Recommendation S&E-2, that it has approved
11 the Recommendation with amendments.

12 The Committee Recommendation is referred to the
13 Committee of the Whole.

14 The Committee of the Whole also has had
15 under consideration the Committee Recommendation RP-1
16 and still has it under consideration and desires to sit
17 again.

18 My attention has been called to the fact that I
19 said the Committee Recommendation S&E-2 was referred to
20 the Committee of the Whole. It is, of course, referred
21 to the Committee of Style Drafting and Arrangement.

1 Are there any announcements by any Committee
2 Chairmen?

3 Delegate Gallagher.

4 DELEGATE GALLAGHER: There will be a meeting --
5 for remedial purposes -- of the Committee on Legislative
6 Branch at the Maryland Inn immediately following this
7 meeting.

8 THE PRESIDENT: Delegate Penniman.

9 DELEGATE PENNIMAN: There will be a meeting
10 of the Committee on Style -- not for remedial purposes --
11 at eight o'clock this evening.

12 THE PRESIDENT: Are there any other announcements
13 by Committee Chairmen? Any other announcements?

14 All Delegates not present in the roll call
15 may indicate their presence now in supplemental roll call.

16 The Clerk will record the supplemental roll
17 call.

18 Before recognizing Delegate Powers to move
19 adjournment, I desire to call to your attention that
20 tomorrow morning the agenda will include a consideration
21 of Committee Recommendation EB-3 provided rules are

1 suspended to permit consideration of that Recommendation.
2 This is being put in now because if it is approved by the
3 Committee of the Whole, then the entire Executive Branch
4 Article can be considered by the Committee on Style
5 Drafting and Arrangement at one time.

6 The Chair recognizes Delegate Powers.

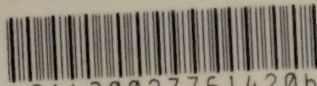
7 DELEGATE POWERS: Mr. President, I move we
8 adjourn until ten o'clock tomorrow morning.

9 THE PRESIDENT: Second?

10 All in favor signify by saying Aye; Contrary, No.
11 The Ayes have it, it is so ordered.

12 (Whereupon, at 6:25 p.m., the Convention adjourned,
13 to reconvene at 10:00 a.m., Saturday, December 9, 1967.)
14
15
16
17
18
19
20
21

Medical Room
University of Maryland Library
College Park, Md.



a31430027761420b

UNIV. OF MD. COLLEGE PARK

